



DRAFT LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)

NEWBURGH, NEW YORK

JULY 25, 2014

BFJ Planning

**DRAFT LOCAL WATERFRONT REVITALIZATION PROGRAM
(LWRP)**

Prepared for

City of Newburgh, New York

and

Newburgh Waterfront Advisory Committee

**Prepared by:
BFJ Planning
115 Fifth Avenue
New York, NY 10003**

In association with

**Geoffrey Steadman
and
Halcrow Group Limited**

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City Staff

Michael G. Ciaravino, City Manager
James A. Slaughter, Director of Planning
Ian MacDougall, City Planner
Mimi Naclerio, Secretary to the Waterfront Advisory Committee

City Council

Judy Kennedy, Mayor
Genie Abrams
Regina Angelo
Cedric Brown
Cindy Holmes
Gay Lee
Karen Mejia

Conservation Advisory Council

Richard Harper, Chair
Kippy Boyle
Gail Fulton
Mary McTamanev
Phil Prinzivalli
Peter Smith
Chuck Thomas
Chad Wade

With Support from the former **Waterfront Advisory Committee**

Consultants

BFJ Planning

Frank Fish, FAICP, Principal
Paul Buckhurst, AICP, ARIBA, Principal
Sarah Yackel, AICP, Principal
Susan Favate, Associate Principal

Geoffrey Steadman, Harbor Management Plan

Halcrow Group Limited

Gillian Millar, Coastal Engineer

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INTRODUCTION

The City of Newburgh is one of the most historic communities in the State of New York. From the first settlement in 1709 to the present day, much of the City's history must be told with respect to its location on the Hudson River, one of the great waterways of the United States.

The Hudson River and waterfront were vital to the historical development of the City and enabled Newburgh to grow in the 1800s into one of the major centers of maritime commerce, industry and transportation in the state. Despite a period of decline toward the end of the 20th century, the City's waterfront is, in effect, being reborn at the beginning of the 21st century, and Newburgh is again pursuing the river-related opportunities for community growth and development that were such a significant part of its maritime history. The eastern edge of Downtown Newburgh – the City's central business district – overlooks and adjoins the waterfront, making the waterfront a major focal point and opportunity area in the mid-Hudson region for public access to the river.

The water and waterfront resources of the Hudson River and its Quassaick Creek tributary at Newburgh continue to provide irreplaceable environmental, cultural and economic values. The City's water and waterfront areas are used for a variety of recreational and commercial purposes, and Newburgh is a vital center of recreational boating in the region. Visiting and resident boaters, excursion boats, passenger ferries, rowers, kayakers, commercial tugs and barges and other vessels and operators all share the Hudson River's navigable waterway at Newburgh. The non-boating public also enjoys the river at waterfront areas that provide opportunities for walking, picnicking, fishing, special waterfront events, scientific study and enjoyment of the majestic views of the river and the Hudson Highlands that sweep across the state just south of Newburgh. In addition, the natural environment of the Hudson River estuary provides vital ecological functions and values that contribute significantly to the City's character and quality of life.

Today, perhaps more than ever, public attention is being directed toward the opportunities for community enhancement and beneficial development presented by the Hudson River at Newburgh. A number of City planning and development initiatives are focused on the river and waterfront, including projects to increase public use and enjoyment of the river, protect and enhance environmental quality and encourage beneficial redevelopment of properties near the river. Currently, redevelopment is being planned for several prominent properties on and near the waterfront; that redevelopment may be expected to have a significant effect on the character of the city and its waterfront for years to come.

In the future, the Hudson River will continue to be the City's "river of opportunity," exerting a fundamental influence on the City's culture, economic development and quality of life. There will be a continuing need for long-range planning and active involvement by the City to ensure the most beneficial future use of its water and waterfront resources as well as conservation of their vital natural functions and ecological values.

The revised 2014 LWRP consists of the following Sections:

- I. Local Waterfront Revitalization Program
 - A. Local Waterfront Revitalization Program Boundary

- II. Local Waterfront Revitalization Program Inventory and Analysis and Harbor Management Issues and Planning Considerations
 - A. LWRP Inventory and Analysis

- III. Local Waterfront Revitalization Program Policies
 - A. LWRP Local Policies and Applicable State Policies

- IV. Proposed Land and Water Uses and Proposed Projects
 - A. Local Waterfront Revitalization Program

- V. Local Laws and Regulations Necessary to Implement the Program
 - A. Laws and Regulations

- VI. State and Federal Actions and Programs Likely to Affect Implementation
 - A. State and Federal Actions and Programs Which Should Be Undertaken in a Manner Consistent with the LWRP
 - B. State and Federal Actions Necessary to Further the LWRP

- VII. Consultations with Other Affected Federal, State, Regional and Local Agencies
 - A. Local Consultation
 - B. Regional Consultation
 - C. State Consultation
 - D. Federal Consultation

- VIII. Obtaining Local Commitment

A. LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)

Recognizing the need to continue to strengthen the City's role for managing its water and waterfront resources, the City prepared a Local Waterfront Revitalization Program (LWRP) in 1992 and the City Council adopted that same year the City's Waterfront Consistency Review Law (Chapter 296 of the City's Code of Ordinances) to implement the LWRP. In 2013, the City Council repealed Chapter 296 and replaced it with Chapter 159 Conservation, which established a Conservation Advisory Council and regulations for implementation of the LWRP. The 1992 LWRP was adopted by the City and approved by the State of New York in accordance with authority provided by Article 42 of the New York Executive Law. The LWRP contained the City's policies and recommendations, consistent with the coastal management policies of the state, to promote beneficial waterfront development enhanced by or dependent on the City's waterfront resources and in balance with protection of the its natural coastal resources.

In accordance with Article 42 of the New York Executive Law, the City's LWRP, upon its approval and adoption, became an element of the New York State Coastal Management Program. As a result, State and federal actions affecting the City's Waterfront Area must be consistent with the LWRP's policies and other provisions. This consistency requirement is a significant tool that the City uses to ensure that state and federal actions conform to Newburgh's needs, interests and conditions.

The Waterfront Consistency Review Law also established the Newburgh Waterfront Advisory Committee (WAC), which is now known as the Conservation Advisory Council (CAC) responsible for reviewing proposed actions affecting the Waterfront Area, considering the consistency of such actions with the LWRP and making recommendations regarding that consistency to the agencies responsible for approving or implementing the proposed actions.

Article 42 of the Executive Law was amended in 1992 to authorize municipalities to prepare and adopt, as integral components of their LWRPs, comprehensive harbor management plans to address "problems of conflict, congestion and competition for space" pertaining to the use of harbors, surface waters, and underwater lands to a distance of 1,500 feet from the shore. Such harbor management plans thereby extend a municipality's traditional planning and zoning authority out and over its navigable waters. One major new component of this revised 2008 LWRP is the inclusion of a Harbor Management Plan, as stated below.

In 1999, because of redevelopment initiatives, the City of Newburgh determined it was timely to revise and update its locally adopted LWRP. This update was prepared by staff from several City departments and reflected current land uses, economic, natural, infrastructure, and community service policies as they relate to the community's local waterfront revitalization area. The revised LWRP was adopted by the City Council and approved by the State of New York in 2001.

In 2007, again because of redevelopment initiatives in the waterfront area – including the public-private Newburgh Waterfront Redevelopment Project – the City determined it was appropriate to update its LWRP as well as prepare an HMP. This update has been prepared by the City's planning consultant, BFJ

Planning and Geoff Steadman, HMP Consultant, with assistance from City staff and the CAC. This amendment to the existing LWRP updates the existing conditions within the LWRP area to reflect changes experienced in the area since 2001, with the following objectives:

- Preserving open space and increasing public access to the waterfront
- Linking of the waterfront to the historic district, Washington's Headquarters and the Broadway commercial area
- Addressing parking issues on the waterfront by planning for and integrating inter-modal and multi-modal transportation links to the waterfront
- Identifying contaminated sites in and adjacent to the LWRP area and planning for contaminant remediation
- Preparation of a Harbor Management Plan, as set forth in 19 NYCRR Part 603 and further described in guidelines prepared by the Department of State

The City-appointed WAC (now the CAC) met regularly throughout 2007 and into 2008 to prepare the amendments to the 2001 LWRP. The Committee met with the Robert McKenna, Director of Planning and Development and with members of his staff, as well as with the City's LWRP and HMP consultants, BFJ Planning and Geoff Steadman on numerous occasions to discuss the direction of the LWRP and HMP; all of these meetings were open to the public. The City also hosted a public workshop to present the preliminary sections of the amended LWRP.

Following approval and adoption of this revised LWRP, the LWRP and the fully integrated HMP will be applied by the City to address issues regarding waterfront land-use and development. In this regard, the LWRP will be implemented in coordination with the City's Sustainable Master Plan and zoning regulations whose influence is directed primarily landward, above the mean high water (MHW) line on the City's waterfront.

B. NEWBURGH HARBOR MANAGEMENT PLAN (HMP)

These LWRP amendments include preparation of the City's Harbor Management Plan (HMP) as a fully incorporated element of the LWRP (See LWRP Goal #2). To prepare the HMP, the City established the jurisdictional area within which the provisions of the HMP are to be applied and enforced. The Newburgh Harbor Management Area (NHMA), a sub-area of the City's Waterfront Area, includes all of the navigable waters, intertidal areas and underwater lands of the Hudson River and Quassaick Creek within the territorial limits of the City and waterward of the MHW line. The NHMA is bounded by the boundary lines of the neighboring municipalities of the Town of Newburgh on the north and the Town of New Windsor on the south; by the centerline of the Hudson River which marks the boundary line of the City of Beacon on the east; and by the MHW line on the west.

Preparation of the HMP also involved a review of existing conditions in and adjoining the NHMA; an assessment of the laws, programs, and authorities pertaining to the NHMA; and the identification of existing and potential issues to be addressed in the HMP. The HMP consists of harbor management

policies included in Section III of the LWRP, as well as the statement of harbor management projects, opportunities and recommendations included in Section IV.

The HMP, as an element of the LWRP, is implemented through the same procedure established for implementation of the LWRP. That procedure is specified in the Conservation Chapter (Chapter 159) of the City Code of Ordinances. As elements of the LWRP, the HMP's policies and other provisions have all of the legal weight and standing of all other policies and provisions of the LWRP and are implemented in the same manner.

In this regard, HMP implementation is achieved primarily through the actions of City agencies and officials in the course of implementing their powers and duties set forth in the City Charter and Code of Ordinances and through the actions of relevant State and federal agencies. The general public, waterfront property owners, and private organizations can also contribute to HMP implementation.

The benefits the city realizes from the HMP are described in Article 42, Section 916, of the New York State Executive Law and are the same benefits obtained from the LWRP. The HMP, as an element of the LWRP, is part of the New York State Coastal Management Program and, as a result, State and federal actions including regulatory and funding actions affecting the NHMA must be consistent with the HMP. The HMP enables the City to strengthen and pursue its own vision for the future of its waterfront and coastal waters on the Hudson River and Quassaick Creek, in partnership with state and federal authorities and interests.

SECTION I

LOCAL WATERFRONT REVITALIZATION PROGRAM BOUNDARY

SECTION I LOCAL WATERFRONT REVITALIZATION PROGRAM AND HARBOR MANAGEMENT PLAN BOUNDARY

A. LOCAL WATERFRONT REVITALIZATION PROGRAM BOUNDARY

1. INTRODUCTION

The boundary of a Local Waterfront Revitalization Program (LWRP) area is intended to include all land and features within the City that may have a “direct and significant impact” on coastal waters because the shoreland area has one or more of the following characteristics:

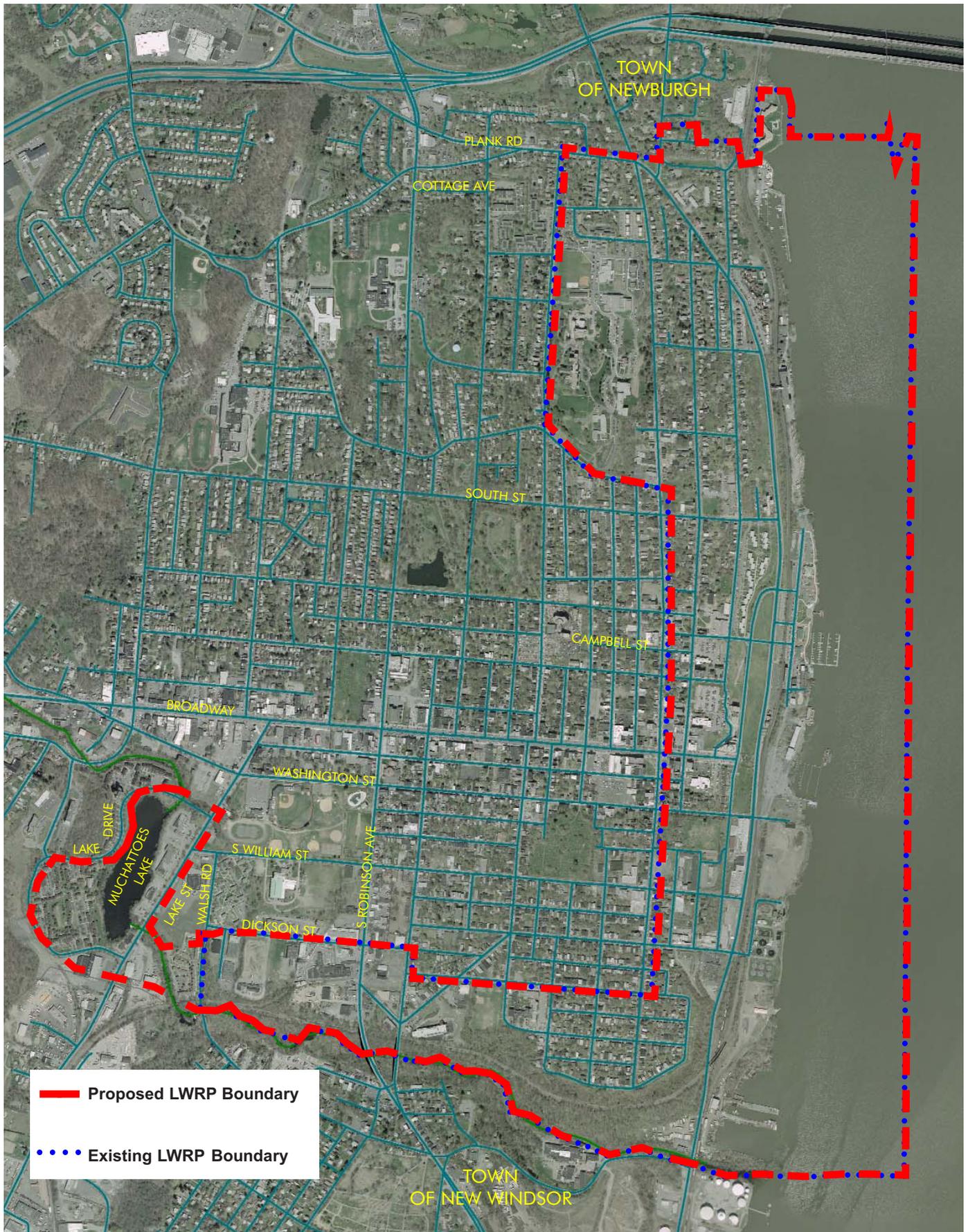
- The area includes uses that have direct contact with, depend on or make use of coastal waters;
- The area includes natural features that are affected by or have an affect on coastal waters;
- The area has a direct functional, cultural or historical relationship with the waterfront;
- The area’s natural features such as tree cover, hillsides, steep slopes, ridgelines and wetlands either effect or are affected by the coastal waters; and
- The area has a direct aesthetic relationship with the waterfront in that it is clearly visible from or contains direct viewpoints of the coastal waters.

2. EXISTING LWRP BOUNDARY

The coastal area of the existing Newburgh LWRP area boundary is as follows (see Figure 1: LWRP Area Boundary, Existing and Proposed):

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.

To establish and implement its LWRP, the City has defined the "Waterfront Area" within which the provisions of the LWRP are applied. In addition to its upland areas subject to the City's municipal planning and zoning authorities, the existing LWRP Area includes the Hudson River and portions of Quassaick Creek within the City's municipal boundaries. Over the Hudson River, the City's municipal boundary extends to the centerline of the river.



LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 1: LWRP BOUNDARY

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

Beginning at the point of intersection of the northern boundary of the Town of New Windsor and the southern boundary of 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.

3. PROPOSED LWRP BOUNDARY

The coastal area of the proposed Newburgh LWRP area boundary is as follows (see Figure 1: LWRP Area Boundary, Existing and Proposed):

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 to the northern parcel boundary of a multifamily residential development; then westerly along that parcel boundary; then northeasterly along Lake Street; then westerly, southerly and easterly along Lake Drive to the intersection of Lake Street and the boundary between the Town of New Windsor and the City of Newburgh, delineated by the Quassaick Creek; then easterly along that boundary to the point of intersection with mean high water.

The proposed LWRP Area includes the Hudson River, the area surrounding Muchattoes Lake and portions of Quassaick Creek within the City's municipal boundaries. Over the Hudson River, the City's municipal boundary extends to the centerline of the river.

The waterside (Harbor Management Plan) boundary of the City of Newburgh LWRP area is as follows:

Beginning at the point of intersection of the northern boundary of the Town of New Windsor and the southern boundary of 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.

This area, a sub-area within the LWRP Area, is known as the Newburgh Harbor Management Area (NHMA) and includes all of the navigable waters, intertidal areas and underwater lands of the Hudson River and Quassaick Creek within the territorial limits of the City and waterward of the Mean High Water (MHW) line. The distance from the City's shoreline to the centerline of the Hudson River is generally about 3,000 feet (0.57 mile) over the length of the NHMA. The total distance across the river, from the City's shoreline to the Beacon shoreline, is twice that distance, or slightly over one mile. The NHMA shares the same northern and southern boundaries as the overall LWRP area boundary.

As described above, the proposed LWRP boundary has been expanded to include the area around Muchattoes Lake. The proposed boundary revision recognizes that this area is in need of future redevelopment, and the impact of any such redevelopment could have potential impacts on stormwater runoff into Quassaick Creek.

SECTION II

LOCAL WATERFRONT REVITALIZATION PROGRAM INVENTORY AND ANALYSIS

AND

HARBOR MANAGEMENT ISSUES AND PLANNING CONSIDERATIONS

SECTION II INVENTORY AND ANALYSIS AND HARBOR MANAGEMENT ISSUES AND PLANNING CONSIDERATIONS

A. LWRP INVENTORY AND ANALYSIS

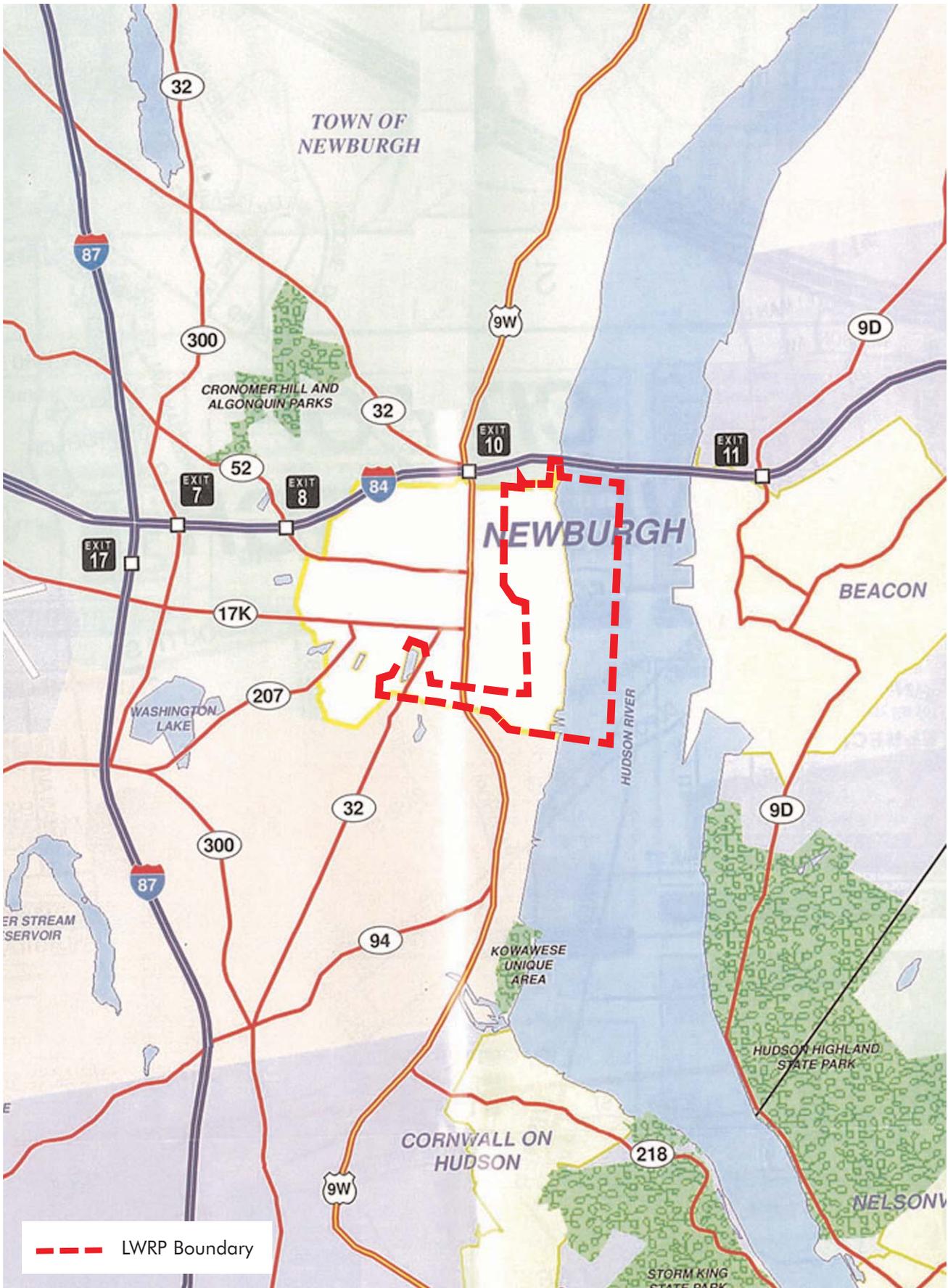
1. INTRODUCTION

Regional Location

The City of Newburgh is located approximately 60 miles north of New York City and 85 miles south of Albany, 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 north and west, the Hudson River on the east and the Town of New Windsor on the south. On the east, Newburgh's corporate limits extend to the centerline of the Hudson River where they meet the west limits of the City of Beacon and Dutchess County. Quassaick Creek, a tributary of the Hudson River, is coterminous with a portion of the city's southern boundary. The City is in the coastal area of New York State as defined by the state Legislature.

The City of Newburgh averages 265 feet above mean sea level (msl). The City 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. Figure 2 shows the local context for the City, situated immediately to the south of Interstate 84 and approximately one mile to the east of the NYS Thruway.

Downtown Newburgh – the City's central business district – is on a plateau overlooking and adjoining the Hudson River waterfront. The waterfront's proximity to the Downtown makes it a major focal point and opportunity in the region for public access to the river, including physical access for boating and other water activities, and visual access to the scenic quality of the river and Hudson Highlands. Views of the river from Broadway have long created a lasting impression on residents and visitors. In addition, the City's image is shaped by spectacular views of the river and Highlands (part of the Appalachian mountain system) that sweep across the state just south of the City.



LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 2: CONTEXT MAP

History

Newburgh has a significant maritime heritage. From the first settlement in 1709 to the present day, much of the City's history must be told with respect to its location on the Hudson River. In 1609, Henry Hudson was the first European to sail up the river as far north as the present location of Newburgh. His ship, the *Half Moon*, anchored in the area known as Newburgh Bay, and a journal entry from his voyage notes that the elevated site beside the river now occupied by the city appeared to be "a pleasant place to build a town." That town was established when the first European settlers arrived 100 years later. As the community developed in the 1700s, wharves were built to take advantage of the deep water close to shore, mills were constructed to provide wood for boats and homes, and by 1743 daily ferry service was established across the river to link Newburgh with Beacon – the first such service across the river north of Peekskill.

Due to its strategic location on the river, Newburgh had a prominent role during the Revolutionary War; George Washington made his headquarters there during the last years of war. His headquarters building, a short distance from the City's waterfront, was acquired by the state in 1850 and is now a State historic site, and the first building in the U.S. acquired by any state for the purpose of historic preservation.

In the 1800s, Newburgh's economic growth was tied to transportation; by 1840 it was a major hub of commerce in the mid-Hudson region. Sailing vessels from Newburgh traded internationally, and the City was an important stop on the steamboat route between Albany and New York. In the steamboat era, Newburgh's deep-water port linked the surrounding farmlands to New York City. Shipping captains and the owners of wharves and warehouses prospered during this period and built impressive homes.

Extension of the railroad north along the Hudson River to Newburgh and the rail connection between Newburgh and New England that was provided by ferry service across the river brought significant industry to the City. The City was incorporated in 1865, and by the end of the 19th century was a thriving center of industry, with more than 100 manufacturing plants including a number of ship-building facilities. World War I further expanded the shipyards along with the rest of the City's industrial base.

In addition, Newburgh became a center of recreational activity and a number of river-related sports and leisure activities became prominent, including yachting, skating, ice boating, rowing and river excursions. The Hudson River was part of a far-reaching transportation network that served not only to develop the City's industry, but also to move people to places of recreation, including casinos, picnic groves, amusement parks and the inclined railway to the top of Mount Beacon across the river.

By the end of World War II, Newburgh's population had expanded to over 30,000, but changes in the regional transportation system led to a significant period of economic decline. As the interstate highway system was built outside its limits, in effect bypassing Newburgh, and as dependence on railroad and river transportation diminished, so too did the City's economic prosperity. When the Newburgh-Beacon Bridge opened in 1963, ferry service across the river ceased operating. Closure of the Air Force base at nearby Stewart Field in the 1970s resulted in the loss of many local businesses and population.

As a result of these changes, by the latter part of the 20th century the Hudson River was no longer seen as the City's gateway, and Newburgh's Hudson River waterfront suffered accordingly. City leaders recognized, however, that throughout all of the changes that had taken place and that continued to impact the City, there was one major and constant influence that had affected Newburgh's growth and development since the first settlement. That influence is associated with the City's coastal location on the Hudson River, a setting that has provided Newburgh and its citizens with vital economic, environmental and cultural opportunities and benefits throughout the City's history.

In 1981 the Legislature passed the State's Waterfront Revitalization and Coastal Resources Act (Article 42 of the New York Executive Law) which established State policies for conservation of natural coastal resources and beneficial use of those resources and authorized development of the New York Coastal Management Program. The act enabled coastal area municipalities to prepare Local Waterfront Revitalization Programs based on local needs and objectives for promoting beneficial waterfront development and protecting environmental resources. Using that authority, the City prepared its LWRP in 1992 to begin the rebirth of the city's waterfront. Other initiatives, including changes to the zoning regulations and Master Plan, were also applied to advance the City's goals for beneficial use and development of its water and waterfront resources.

The success of the City's efforts is reflected in an active waterfront used for a variety of recreational and commercial purposes. Newburgh is now a vital regional center of recreational boating. Visiting and resident boaters, excursion boats, passenger ferries, rowers, kayakers, commercial tugs and barges and other vessels all share the Hudson River's navigable waterway at Newburgh. The non-boating public also enjoys the river at waterfront locations providing opportunities for walking, picnicking, fishing, special events, educational activities and scenic views of the river and Highlands.

Today, perhaps more than ever, public attention is being focused on the opportunities for community enhancement and beneficial development presented by the Hudson River at Newburgh. A number of City planning and development initiatives are focused on the river and waterfront, including projects to increase public use and enjoyment of the river, protect and

enhance environmental quality and encourage beneficial redevelopment of properties near the river. Redevelopment encouraged by the City is being planned for several prominent properties on and near the waterfront, which is expected to have a significant effect on the character of the City and its waterfront for years to come.

In the 21st century, the Hudson River will continue to exert a fundamental influence on Newburgh's culture, economic development and quality of life. There will be an ongoing need for long-range planning and active City involvement to ensure the most beneficial future use of water and waterfront resources, and conservation of their natural functions and ecological values.

Transportation and Navigation

Newburgh's location in the state is also defined with reference to the regional transportation infrastructure. Just north of the City is Interstate 84 and the Newburgh-Beacon Bridge that carries I-84 over the Hudson River; one mile to the west is the New York State Thruway; and five miles to the west is Stewart International Airport. Planned as a fourth New York City airport, Stewart International currently handles more than 300,000 passengers annually, with a future capacity to accommodate 1.5 million travelers a year. The Port Authority of New York and New Jersey announced in January 2007 the purchase of the operating lease at the airport, making it responsible for the future expansion of services and passenger use. The City of Newburgh strongly supports the expansion of Stewart International and encourages possible future transit connections among the airport, the Broadway corridor, downtown Newburgh, the LWRP area and the Newburgh-Beacon ferry. The West Shore rail line carries freight through the City and generally follows the shoreline. The Metro-North rail line carrying passengers to and from New York City follows the east shore of the river. A train station in Beacon, directly across the river from the City, offers connection to Newburgh via passenger ferry service. The Newburgh-Beacon ferry service is operated by NY Waterway and Metro-North Railroad, providing service in morning and evening commuting periods to meet Metro-North trains in Beacon operating to and from New York City. The ferry dock in Newburgh is located toward the south end of the City's waterfront, at Washington and Front Streets.

The Hudson River itself is a major transportation route that defines the City's location and predates all other existing and nearby modes of transportation. The opportunities for navigation afforded by the river at Newburgh were essential for the historical development of the City. These opportunities are still vital for recreational and commercial purposes and for the success of the City's waterfront use and development plans that will encourage, and depend on, the vitality of the Newburgh Harbor Management Area (NHMA). The NHMA includes all of the navigable waters, intertidal areas and underwater lands of the Hudson River and Quassaick Creek within the territorial limits of the City and waterward of the Mean High Water (MHW) line.

The Hudson River federal navigation channel, a congressionally authorized channel extending from the southern tip of Manhattan upstream for approximately 155 miles to the southern limit of the NYS Barge Canal at Waterford, New York, north of Albany, passes through the NHMA and is used extensively by recreational and commercial vessels. The navigation channel was authorized in 1910 to support waterborne commerce and generally follows the river's natural channel which, at Newburgh, tends to the west side of the river, toward the City's shoreline. The authorized channel dimensions are 600 feet wide and at least 32 feet deep between New York City and Kingston, New York. The river's natural channel dimensions, however, are generally greater in most reaches of the river, including in the Newburgh area. As a result, the channel's authorized boundaries are not shown as distinct channel lines on Hudson River navigation charts and survey drawings of the U.S. Army Corps of Engineers (USACE). Nevertheless, the USACE requires that no dock, pier, mooring or other structure may be placed in the river, in any location, so as to interfere with the normally used navigation channel at least 600 feet wide.

The New York District of the USACE is responsible for maintenance of the Hudson River channel and has conducted dredging operations to maintain the authorized dimensions in several locations where natural depths are not sufficient to support waterborne transportation. Due to the significant natural depths in the Newburgh area, including depths greater than 40 feet, there has been no need for maintenance dredging by the USACE in the vicinity of the NHMA. The river's mean tidal range in the vicinity of the NHMA is 3.1 feet according to the USACE.

Federal aids to navigation, including channel buoys and flashing lights, are maintained by the U.S. Coast Guard to mark the federal channel. The Coast Guard also conducts ice-breaking operations to maintain an open channel for navigation in the winter season.

The Newburgh-Beacon Bridge just upstream of the NHMA has no significant effect on navigation in the federal channel due to its substantial horizontal and vertical clearances.

Future Development

Newburgh's role in the Hudson Valley region has changed in recent years. Like other older urban centers, it is no longer the regional retail or industrial center. Rather, the City is moving away from this role and stabilizing its existing industrial and commercial base to support a jobs/housing balance for its own residents and adjoining communities. Newburgh continues to play an important role in the overall County economy as a multimodal transportation hub and as a specialized business, medical and industrial activity location.

In 1996, the Regional Plan Association (RPA) published [A Region at Risk, The Third Regional Plan for the New York-New Jersey-Connecticut Metropolitan Area](#), a plan to guide growth, redevelopment and infrastructure investments in the NYC metro area, which encompasses Newburgh. The RPA plan, in commenting on the role of urban centers in the region, states:

“Because so much contemporary activity – work, shopping, recreation, and living – no longer must take place in centers, successful centers will have to further emphasize the positive characteristics that continue to distinguish them from suburban and exurban locations. Extraordinary cultural resources have long been among the greatest strengths of centers in this region.”

As an urban community, Newburgh is a cultural center for Orange County and the Hudson Valley region. It plays a significant role in American and architectural history; retains an existing base of historic buildings (85% of all residential structures were built before 1940); is the location for two institutions of higher learning; and maintains a riverfront location. Taken together, these features create a strong base for urban revitalization and tourism. Newburgh is developing into an interesting, vibrant and ethnically diverse mixed-use residential community with a range of housing types.

With 28,480 residents in 2013 occupying just 3.9 square miles in area, Newburgh is a densely populated community. In 2000, the population of Newburgh was 28,259 persons, an increase of 1,805 persons (or 6.8%) from the 1990 population. By 2010, this figure had risen to 28,866 persons (or by 2.1% since 2000), with a slight decrease in population through 2013, with 28,480 persons. In 2010, approximately 39 percent of the City’s population was white, 30 percent was African-American and about 23 percent was classified as some other race. The Hispanic population, which can be of any race, represented approximately 48 percent of the total population.

The City had a total of 10,505 housing units in 2010, about 86 percent of which were occupied, with the remainder vacant. The majority of units (68.3%) were occupied by renters, rather than owners. For both renting households and owner households, approximately two-thirds of households were families. The vast majority of owner-occupied units (93%) were valued at less than \$150,000, while most renter-occupied households (94%) paid less than \$1,000 in monthly rent. Nonetheless, nearly half (46%) of renters paid 30 percent or more of their household income toward rent.

Newburgh’s median household income in 2009 was \$35,350, and about 24 percent of individuals and 22 percent of families were below the poverty level. Nearly 35 percent of the City’s adult residents had less than a high school education in 2009, while approximately 32 percent had a high school diploma or equivalent, and about 33 percent had attended some college or had an advanced degree.

Although the City of Newburgh had experienced physical and economic decline in past years, 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 (a developed subdivision consisting of 12 single-family homes) are representative of the development activities taking place in the City and within the LWRP area.

In 2006, Leyland Alliance was selected by the City as developers for 30+ acres of City-owned vacant former urban renewal sites located within the LWRP area, as part of the Newburgh Waterfront Redevelopment Project. Preliminary planning proposals provided for the construction of approximately 1,200 residential units of various types, about 140,000 square feet of retail space, a hotel/conference center, approximately 100,000 square feet of office use, public parking facilities and related open space (approximately 4.5 acres) and pedestrian walkways to provide access to the waterfront. However, as a result of the 2008 financial crisis, the project stalled and did not move forward; currently there are no active redevelopment plans for these vacant sites.

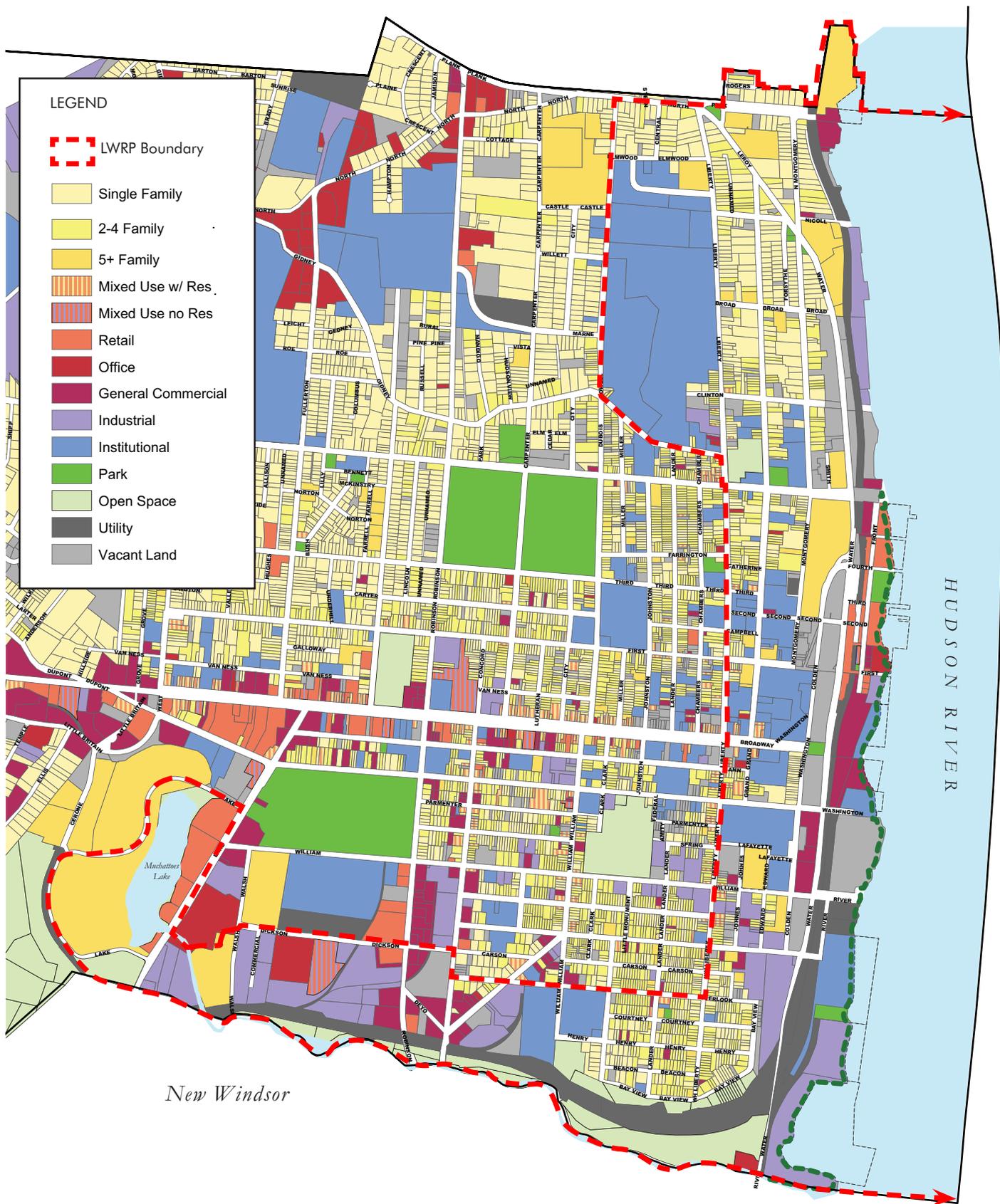
As new development continues to take place, Newburgh will improve both its physical appearance and its economic base. These in turn will aid in the revival of the entire City, and the waterfront.

2. EXISTING LAND AND WATER CONDITIONS

a. Existing Land Use and Development Patterns

The land portion of the Local Waterfront Revitalization Program (LWRP) area in the City of Newburgh comprises a total of approximately 537 acres. See Figure 3 for a current land use map of the entire LWRP area. The LWRP area can be divided into three general land use areas (see Figure 4): the southern land use area, overlooking Quassaick Creek and including the area surrounding Muchattoes Lake (Area A - Southern/Quassaick Creek Area), the inland area west of the CSX rail line and/or Rev. Dr. Martin Luther King, Jr. Boulevard (Area B – Inland Area); and the waterfront land area east of the railroad line along the Hudson River (Area C - Waterfront Area). An understanding of the existing land use patterns within the LWRP area is critical because this will inform the potential future use and development of the waterfront area.

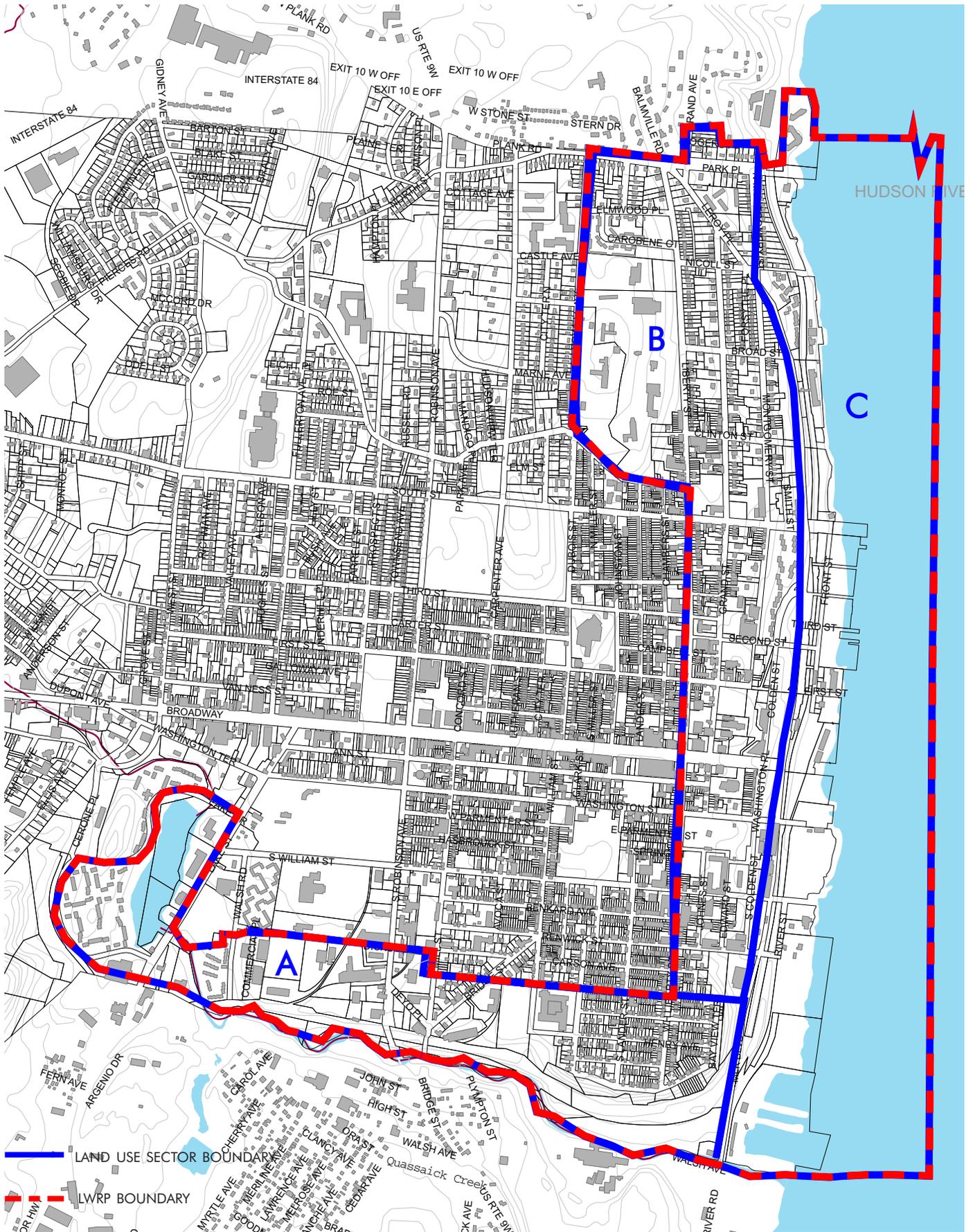
The LWRP land area is characterized by large areas of residential usage, industrial usage and open space, interspersed with public and semi-public uses, and a limited amount of commercial and public recreational space. There is a substantial amount of vacant, underutilized and deteriorating parcels throughout the area, much of which is the product of urban renewal.



New Windsor

LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 3: EXISTING LAND USES



LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 4: LAND USE SECTORS

The NHMA encompasses about 1.25 square miles of surface water area on the Hudson River. The river's shoreline along the NHMA extends for about 2.3 miles from the City boundary on the north to the mouth of Quassaick Creek on the south. Of this distance, about 20% of the shoreline (2,525 feet) is owned by the City, including street-end rights of ways, public parks, water access areas and utility sites; about 80% (9,725 feet) is privately owned. Quassaick Creek flows over a distance of about 6,600 feet within the NHMA and Waterfront Area.

For purposes of clarity, existing land use patterns are discussed by three general land and water use areas, illustrated on Figure 4. A generalized description of existing conditions for each is provided below.

i) Area A - Southern/Quassaick Creek Area

Area A, Southern Quassaick Creek Area, generally includes the area north of the Quassaick Creek, south of Dickson Place and Overlook Place, surrounding Muchattoes Lake and west of Rev. Dr. Martin Luther King Jr. Boulevard (formerly Water Street).

Beginning in the western portion of this area at Walsh's Road and proceeding eastward to Mill Street parallel to Quassaick Creek, 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 area bounded 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 have scenic views of the Hudson River and the surrounding Highlands. For the most part, however, the residential area is not visible from Rev. Dr. Martin Luther King, Jr. Boulevard due to the steep slopes and dense vegetation surrounding it. CSX's Newburgh branch traverses this area.

The area surrounding Muchattoes Lake contains a combination of residential and office/retail uses. Lake Street Apartments, a large, privately owned rental multifamily complex (approximately 375 units) built in the early 1970s, is located southwest of the lake. Lakeside Plaza is to the immediate east of Lake Muchattoes, and is a mix of retail and commercial office uses. This shopping center has a number of vacant storefronts and is in need of redevelopment.

Lake Muchattoes is a manmade lake created by damming a portion of Quassaick Creek for mill use (Dickson Mill); it was previously known as Dickson's Pond. The lake was later used for ice manufacturing by the Muchattoes Lake Ice Company, founded in 1886. The lake is not part of the City's reservoir system. The spillway is visible from Lake Street (Route 32).

ii) Area B - Inland Area

Area B, Inland Area, generally includes the land area west of Rev. Dr. Martin Luther King, Jr. Boulevard, east of Liberty Street, Gidney Street, and Powell Avenue, north of Overlook Place and south of the Town of Newburgh.

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 uses, and almost all of the commercial uses, are located along Liberty Street, while the area between Johnes Street and Rev. Dr. Martin Luther King, Jr. Boulevard 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 bounded 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, institutional, municipal uses and vacant parcels. The Newburgh Public Safety Building housing the police and fire departments and 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 Rev. Dr. Martin Luther King, Jr. Boulevard is an area of vacant urban renewal land. In addition, the Heritage Corridor Development Initiative, launched in 2006 to

implement the recommendations of the Liberty/Grand Street Visioning Study, has recommended that Liberty Street in its entirety be returned to a minimal level of functional drive ability. The Initiative identified several funding sources including federal SAFETEA-LU funds, Transportation Improvement Program (TIP) funding administered by NYS DOT, Transportation Enhancement Program (TEP) partial funding and Community Development Block Grant funding. The Initiative has provided a number of recommendations for improving the corridor's streetscape conditions, pedestrian experience, traffic flow and functional drivability.

Broadway Park, also known as Downing-Vaux Park for its prominent landscape architects, is located at the east end of Broadway, providing a major visual link to the waterfront. Proceeding north past Broadway is a mixed-use area 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. Orange County Community College occupy the former Key Bank and Maple Office buildings, and the newly constructed 87,000 square foot Kaplan Hall, which encompass approximately 5 acres and extend from 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 includes a number of scattered sites undergoing renovation and public improvements with the use of community development funds.

Between Montgomery Street, Rev. Dr. Martin Luther King, Jr. Boulevard and South Street is low-rise multi-family public housing in need of rehabilitation. To the north of South Street at Rev. Dr. Martin Luther King, Jr. Boulevard is a high-rise apartment building that has recently been rehabilitated.

Mount Saint Mary's College is to the west in the Historic District, bounded by Gidney Street on the south, Liberty Street on the east, Powell Avenue on the west and a multifamily apartment complex 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. North of Broad Street along Rev. Dr. Martin Luther King, Jr. Boulevard is Ferry Crossing, a condominium development with excellent views of the Hudson River.

iii) Area C - Waterfront Area/HMP Area

Area C, Waterfront Area/HMP area, generally includes the land and water area east of Rev. Dr. Martin Luther King, Jr. Boulevard, west of the Orange and Dutchess County line, north of the Quassaick Creek, and south of the Town of Newburgh. It is important to note that the LWRP definition of Waterfront Area differs from the definition contained in §C16.03. of the Newburgh City Charter. Section C16.03 defines waterfront as those “lands under water, wharves, piers, docks, parks and playgrounds.”

Figures 6 through 8 present photographs of significant areas, buildings and vistas within the waterfront area. Figure 5 indicates the location and vantage point of each of the photos, Figure 6 shows photos of significant features within the waterfront area between Park Place and South Street, Figure 7 shows photos of significant features between South Street and Broadway and Figure 8 shows photos of significant features for areas south of Broadway.

The water area (NHMA) is used for a variety of recreational and commercial purposes. Recreational boating is most prominent, replacing the maritime trading and shipbuilding activities of long ago. Cruising boats, open runabouts and sail-powered vessels share the Hudson River at Newburgh, joined by rowing sculls, excursion boats, passenger ferries, personal watercraft, kayaks, canoes and other craft. The City's Police and Fire boats, the Orange and Dutchess County Sheriff's boats, Coast Guard vessels and the marine patrol vessels of several State agencies also operate in, and pass through, the NHMA. In addition, barges carrying fuel oil and other materials to upriver locations and other commercial vessels use the Hudson River federal navigation channel at Newburgh. Special water and waterfront events such as fireworks displays, the Hudson River swim to Beacon, rowing regattas, tall-ship visits, waterfront concerts, fishing tournaments and other events also occur within the NHMA.

Waterfront conditions, including the type and condition of waterfront development and land-use, have a major influence on the NHMA. For example, the quality and availability of land-based facilities, including parking, affect recreational boating activities as well as excursion boat and passenger ferry operations; waterfront development and the use of City-owned land and rights-of-way influence public access to the NHMA; and waterfront conditions can affect the environmental quality of the NHMA. Key waterfront facilities and points of interest in and near the NHMA are shown in Figures 9 and 10.

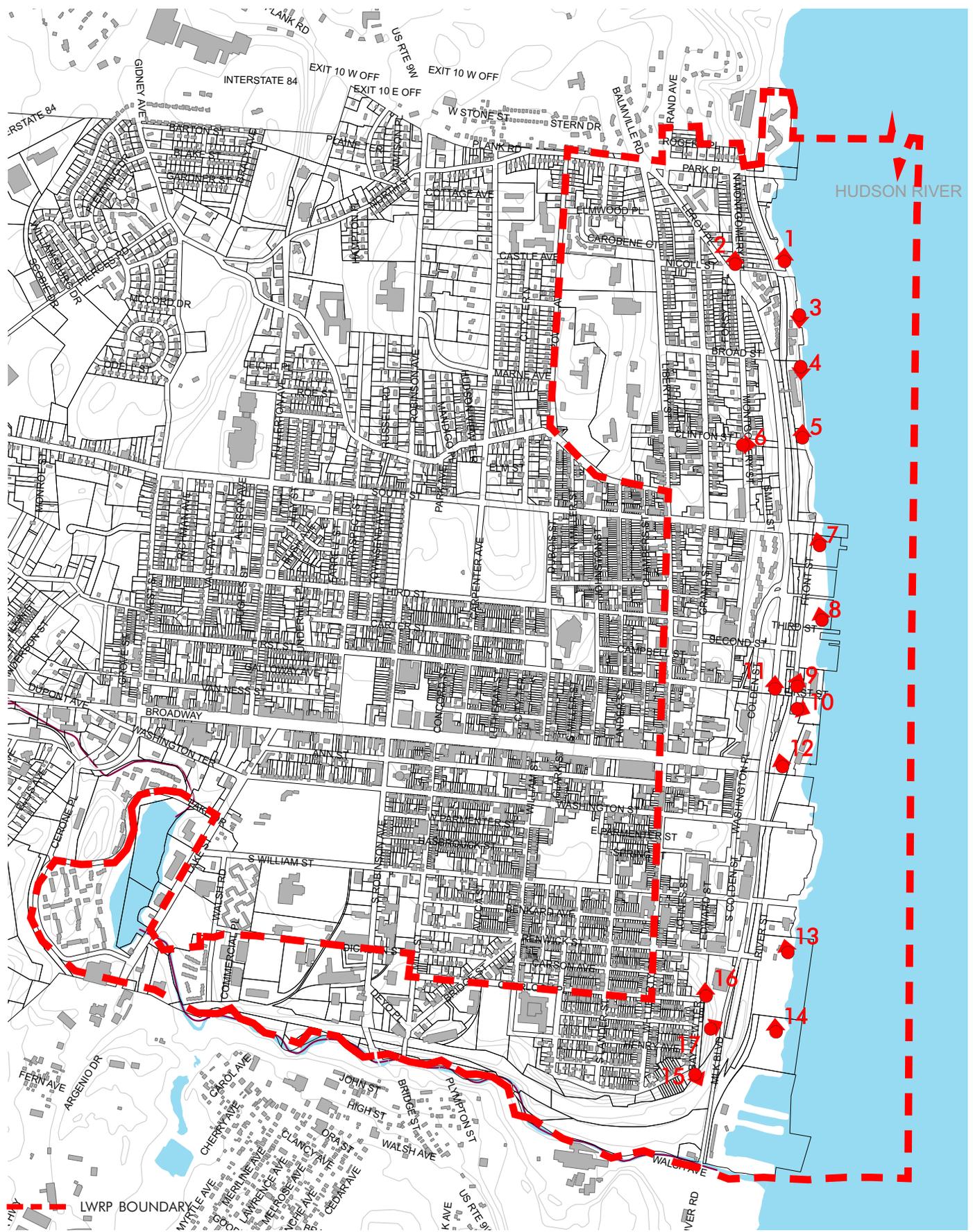
The **riverfront walkway** is an essential element of the City's public waterfront, providing a pedestrian connection between waterfront activity areas, including the waterfront restaurants along Front Street, docks for excursion boats and the Newburgh Landing Park. The paved walkway extends for a distance of 1,300 linear feet along the shoreline between the City's South Street right-of-way on the north and Carpenter Street on the south. The City holds an easement for maintenance of the walkway where it passes over privately owned land.

Newburgh Landing Park near the midpoint of the walkway is a focal point and central facility for community activities on the waterfront. Dedicated in 1976, it provides a landscaped setting with public amenities such as benches, bathrooms, lighting and interpretive displays to support passive recreational activities. Park improvements have been funded in part by State and federal funds provided through the New York State Office of Parks, Recreation, and Historic Preservation.

The **Newburgh Landing dock** is also used by vessels participating in or serving as attractions during special events. Initial plans called for the dock to be larger than the structure that was actually built. As a result, City planners are considering opportunities for increasing the capacity of the existing dock so that it will be able to accommodate larger vessels as originally planned. Use of the dock by all vessels requires advance permission from the City Manager's office.

Further south on the waterfront, the City's **Newburgh Boat Launch** at the foot of Washington Street provides opportunities for launching trailered boats and vessels such as canoes and kayaks. Parking for vehicles and boat trailers is provided, along with a sitting area. Launching is permitted from 6 a.m. to 8 p.m.; a fee is charged for launching all trailered boats, but not for "car-top" vessels.

The ramp also provides access to the river for participants in Hudson River fishing tournaments and is used for emergency response, rescue and retrieval purposes by authorized agencies, including the city's Police and Fire departments. Construction of the boat launch was undertaken with State funds provided through the DEC. A privately owned floating restaurant with docks for its patrons operates seasonally in the riparian area of the City property.



LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 5: SITE PHOTOS LOCATION MAP

NEWBURGH WATERFRONT

SOURCE: BfJ PLANNING



0 1300 ft

BfJ Planning



1 Waterfront View North Toward Newburgh-Beacon Bridge



2 North Montgomery Street Looking North



3 Newburgh Waterfront Looking South



4 Regal Bag Property Looking South



5 Regal Bag Property Looking North



6 Clinton Street Looking East

LOCAL WATERFRONT REVITALIZATION PROGRAM

NEWBURGH WATERFRONT

FIGURE 6:
SITE PHOTOS - PARK PLACE (SOUTH STREET)

SOURCE: BfJ PLANNING

BfJ Planning



7 Torches Marina Parking Lot Looking North



8 Newburgh Landing Area Looking North



9 First Street Area Looking North



10 First Street Area Looking East



11 First and Water Streets Looking North



12 Foot of Broadway Looking Northwest

LOCAL WATERFRONT REVITALIZATION PROGRAM

NEWBURGH WATERFRONT

FIGURE 7:
SITE PHOTOS - SOUTH STREET (BROADWAY)

SOURCE: BfJ PLANNING

BfJ Planning



13 Treatment Plant Area Looking North



14 Southern Waterfront Area Looking North



15 Southern Waterfront Area Looking Southeast



16 Southern Waterfront Area View North



17 Treatment Plant Area Looking Northeast



LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 9: NORTHERN PORTION OF NHMA: EXISTING CONDITIONS AND WATER-DEPENDENT USES





LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 10: SOUTHERN PORTION OF NHMA: EXISTING CONDITIONS AND WATER-DEPENDENT USES



Ward Brothers Memorial Rowing Park, with access from South Water Street and Renwick Street, is the southernmost City-owned property on the waterfront. The park is named for one of the most famous families in the sport of rowing, who rowed at Newburgh in the 1800s. The existing rowing facility, including the storage and boathouse building, were built with State funds provided through the DEC. The facility is leased by the City to the Newburgh Rowing Club, and is also used for a number of school rowing programs, including Newburgh High School's program. The park's shoreline where rowing shells are launched includes a low-profile concrete block bulkhead.

In addition to the above-noted City properties, several street-end rights-of-way also provide opportunities for access to the NHMA, most notably at South Street and First Street. While the tunnel that once allowed South Street to pass through the railroad embankment, connecting upland residential neighborhoods with the river, no longer exists, the **South Street right-of-way** between the embankment and the water still does. Where it meets the water, the street end marks the northern terminus of the existing riverfront walkway. Privately owned marina docks from the Torches on the Hudson Marina (see below) encroach northward into the extension of the right-of-way. The South Street shoreline is one of the few sections of the City's waterfront not fortified by structural shore protection measures.

The **First Street right-of-way** is to the south of the southern terminus of the walkway. The right-of-way, though previously used for commercial and industrial activities and extending into the NHMA, is designated by the City as the site of a public fishing pier. Plans for the pier were approved by state and regulatory agencies for construction in the NHMA and the pier was constructed in 2009.

Between First and South streets, City rights-of-way associated with Second, Third, Fourth and Fifth streets extend as pedestrian walkways from Front Street, through properties now occupied by waterfront restaurants and the Newburgh Landing, and effectively end at the riverfront walkway.

Between and including the extensions of First and South streets into the NHMA, there are 25 "land underwater grants" issued by the State of New York for private use of the submerged land. These grants, issued during the 1800s to waterfront property owners, generally extend offshore for 450 to 550 feet; they extend waterward along the entire shoreline except in the extension of the Second Street right-of-way. Included are five grants to the City in the extended

rights-of-way of First, Third, Fourth, Fifth and South streets. The grants include “full beneficial enjoyment grants” through which the State issued full fee title to the land under water, and “commerce grants,” which are restrictive grants that were typically issued for purposes of promoting commerce and which specify that the grant can only be used for commercial purposes. “Land underwater grants” are also found in the NHMA north of South Street and south of First Street.

Privately owned facilities providing opportunities for recreational boating in the NHMA include the marina facilities of the Newburgh Yacht Club, the boat slips associated with the Pier-Loun residential condominium and three commercial marinas (Torches on the Hudson, Front Street and Gull Harbour).

The **Newburgh Yacht Club** in the northern part of the NHMA is one of the oldest boat clubs in the Hudson Valley and the oldest existing marina in the City. Established in 1885, the club moved to its present site in 1905 and provides over 100 boat slips, winter boat storage, a fuel dock and a waterfront restaurant. A timber pile breakwater back-filled with stone in the NHMA provides a sheltered environment for the club's marina. Just north of the yacht club, at the northern boundary of the NHMA, the **Pier-Loun condominium** provides boat docking and berthing facilities along its bulkheaded shoreline.

All three of the commercial marinas provide seasonal rentals of boat slips as well as transient slips and/or dockage for visiting boaters. **Torches on the Hudson Marina** adjoins South Street at the northern terminus of the riverfront walkway and provides dockage space and 50 boat slips, including space and amenities for visiting boaters who are patrons of the adjoining restaurant in the Front Street restaurant district, and dock space for Hudson River excursion vessels that provide opportunities for public enjoyment of the river.

The **Front Street Marina**, near the southern terminus of the riverfront walkway and the Front Street restaurant district, provides dockage space, over 120 boat slips, a vessel-waste pump-out facility, and other amenities for its patrons.

Farther south on the waterfront, **Gull Harbour Marina**, located on the property known as the Gull Harbour-American Dock property, provides over 200 boat slips for seasonal rental and space used by commercial vessels chartered for recreational fishing. The marina facilities also support the principal water-dependent commercial/industrial businesses operating on Newburgh's waterfront. Included are businesses providing marine construction services

throughout the Hudson Valley, such as dock-building and bulkheading services, and businesses involved with selling and leasing commercial barges. Commercial vessels use the dockage available on the outside face of the outermost marina docks.

The Gull Harbour-American Dock property is also used for operation of the Metro-North Railroad Ferry-Rail link, which provides passenger ferry service from the **Newburgh-Beacon ferry dock** to the Metro-North train station across the river in Beacon. The ferry operation is funded by the New York Metropolitan Transportation Authority and operated by a private contractor. The ferry dock is privately owned; its operation is in accordance with lease agreements with the City and Metro-North. In addition, 250 free parking spaces for ferry patrons are provided on the property. Several hundred passengers are reported to use the ferry each weekday to reach the Beacon train station, where parking is limited, for access to the Metro-North rail line to New York City. Bus service to the train station via the Newburgh-Beacon Bridge is provided by the ferry operator when river ice conditions force cancellation of the ferry service.

Another opportunity for access to the NHMA is the **Newburgh-Beacon ferry** initiated in 2007. This service, operated by a private contractor, NY Waterway, is available weekdays between 5:30 am and 9:00 pm, for trips across the river linking the Newburgh waterfront with attractions in Beacon and the Metro North Hudson Rail line.

In addition to the public and private water-dependent facilities described above, several other waterfront uses and facilities help to characterize the waterfront and NHMA. These include City facilities, properties on the waterfront that may be considered underutilized and/or opportunity areas for redevelopment and vacant properties on and near the waterfront that have been specifically identified by the city as redevelopment areas.

The **Water Pollution Control Plant** and former **incinerator site** are located on adjoining waterfront properties just north of the Ward Brothers Memorial Rowing Park. Under an inter-municipal agreement, the plant accepts and treats wastewater from the City of Newburgh, Town of Newburgh and from the Town of New Windsor. The volume of wastewater processed by the plant is within its design capacity. The incinerator site is currently used by the City to dry sewage sludge before it is trucked away for disposal. Undeveloped City property just south of the wastewater treatment facilities provides space for plant expansion as necessary.

Properties on the waterfront that may be considered underutilized and/or opportunity areas for redevelopment include the **Regal Bag property** which has been used for industrial purposes, including water-dependent uses, since the mid-1800s. The property includes an industrial building of historical significance, has a timber bulkhead in good condition and direct access to deep water in the NHMA, and is currently not using the NHMA for any water-dependent purpose.

The **Gull Harbour-American Dock property**, due to its substantial size and proximity to the city's Waterfront Development Project areas, is also considered an opportunity area for redevelopment.

The third prominent property considered an opportunity area for redevelopment is the property known as the **Steel-Style Shipyard property** just south of the Ward Brothers Memorial Rowing Park and adjoining Quassaick Creek. The property, once the site of an active railroad yard and water-dependent industrial activities, includes two substantial, underutilized concrete-slab piers. The site represents the last remaining section of the City's once extensive industrial waterfront.

Figures 12- 16 illustrate the existing conditions of the NHMA. Figure 11 identifies the locations of the aerial photos in Figures 12-16.

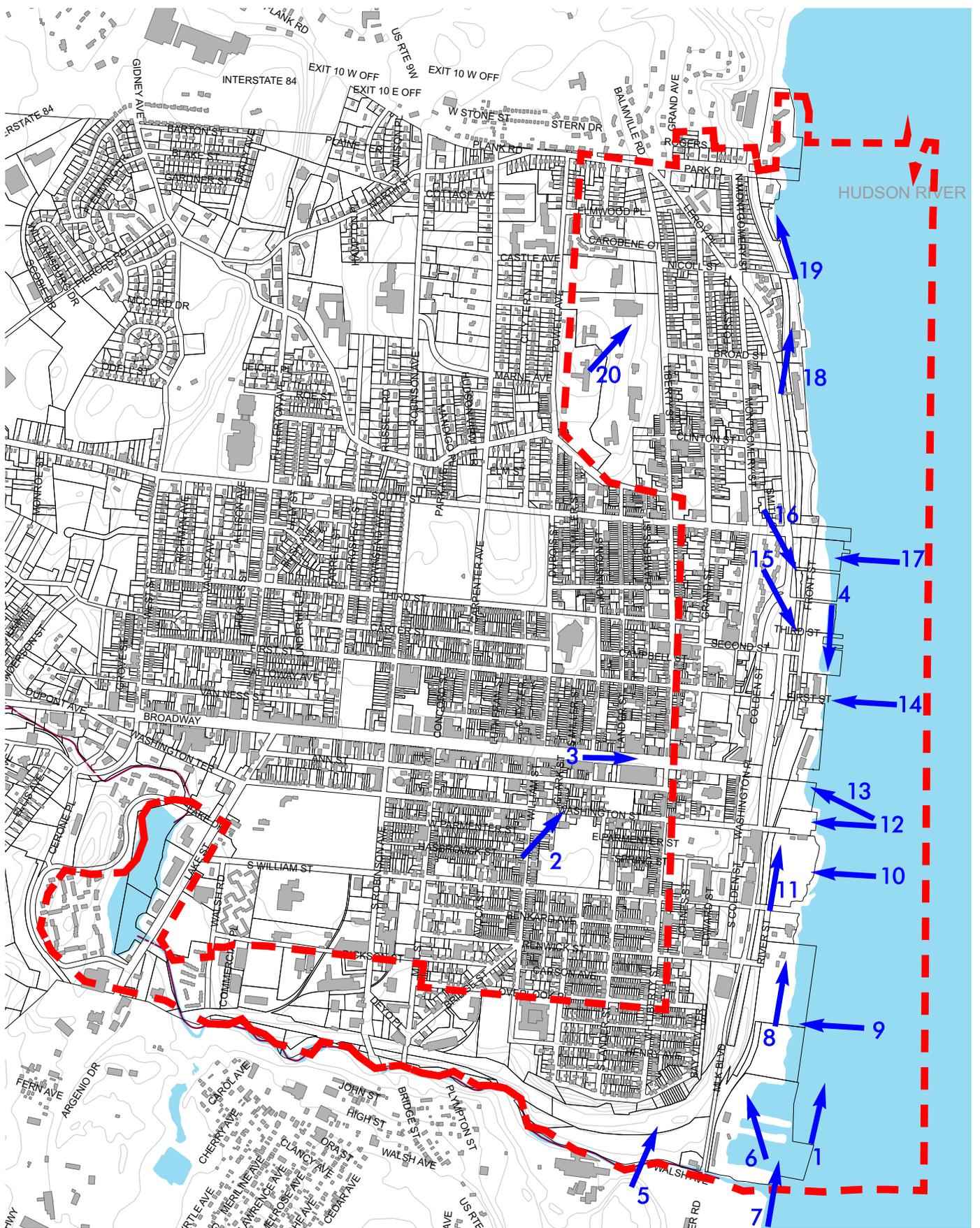


FIGURE 11: NHMA EXISTING CONDITIONS PHOTO LOCATION MAP

LOCAL WATERFRONT REVITALIZATION PROGRAM

NEWBURGH WATERFRONT

SOURCE: BfJ PLANNING



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Photo 1: Newburgh Harbor Management Area (NHMA) and waterfront on the Hudson River looking north.

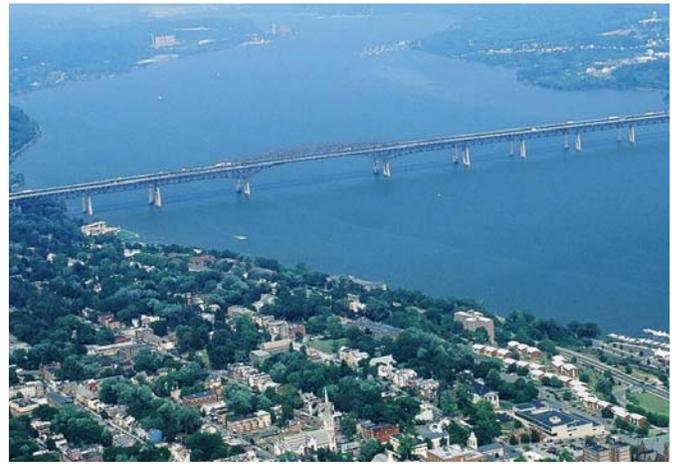


Photo 2: View upstream on the Hudson River over Downtown Newburgh and Newburgh-Beacon Bridge.



Photo 3: Looking over Downtown Newburgh and Broadway to the Hudson River.



Photo 4: The Hudson River and Highlands looking south from the NHMA.

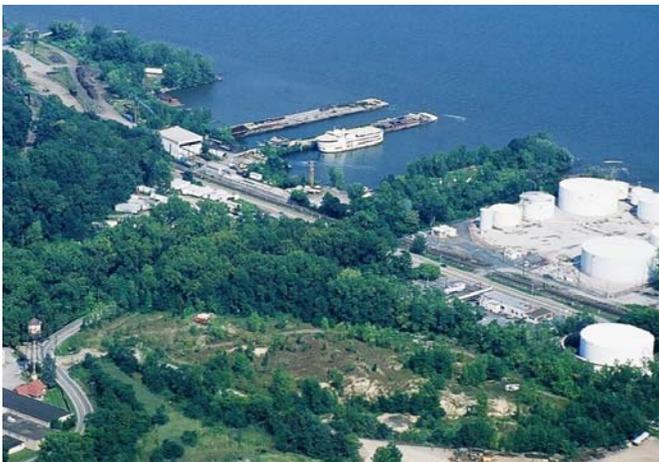


Photo 5: The forested watershed of Quassiack Creek at the south boundary of the City.



Photo 6: The mouth of Quassiack Creek marks the south boundary of the NHMA. (Steel-Style site to right; oil storage terminal in New Windsor to left.)

LOCAL WATERFRONT REVITALIZATION PROGRAM



Photo 7: Looking upstream over New Windsor oil storage terminals, mouth of Quassaick Creek and Steel Style shipyard property.



Photo 8: Looking north over Ward Brothers Memorial Rowing Park, Water Pollution Control Plant, incinerator site and Consolidated Iron and Metal redevelopment area.



Photo 9: Ward Brothers Memorial Rowing Park (left), Water Pollution Control Plant and incinerator site.

LOCAL WATERFRONT REVITALIZATION PROGRAM

NEWBURGH WATERFRONT

FIGURE 13: NHMA EXISTING CONDITIONS (PHOTOS 7-9)

SOURCE: GEOFFREY STEADMAN

BEJ Planning



Photo 10: Consolidated Iron and Metal redevelopment area. (Incinerator site to left, Newburgh boat launching ramp to right.)



Photo 12: Newburgh boat launching ramp between Consolidated Iron and Metal redevelopment area (to left) and Gull Harbour marina (to right).



Photo 11: Newburgh waterfront looking north over Rev. Dr. Martin Luther King Boulevard and West Shore Rail Line. Consolidated Iron & Metal redevelopment area in right foreground; redevelopment project areas in center.



Photo 13: Gull Harbour Marina-American Dock site, including Newburgh-Beacon passenger ferry terminal; First Street right-of-way and Front Street Marina to right.

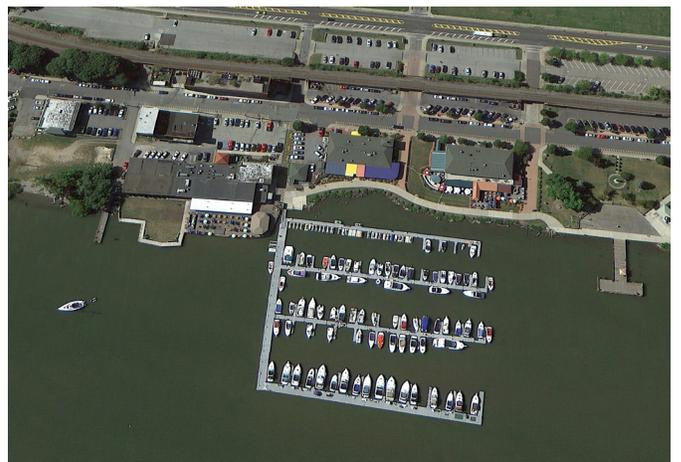


Photo 14: First Street Pier, Front Street Marina and Riverfront walkway.

LOCAL WATERFRONT REVITALIZATION PROGRAM

NEWBURGH WATERFRONT

FIGURE 14: NHMA EXISTING CONDITIONS (PHOTOS 10-14)

SOURCE: GEOFFREY STEADMAN, GOOGLE EARTH

BEJ Planning



Photo 15: Waterfront overlooking vacant and under-utilized properties, Newburgh Landing and Front Street Marina. (Newburgh Landing and dock are to left of marina.)



Photo 16: Torches on the Hudson Marina site and Newburgh Landing.



Photo 17: Torches on the Hudson Marina site with private excursion boat docks. South Street right-of-way to the right. (Marina docks extend across right-of-way.)

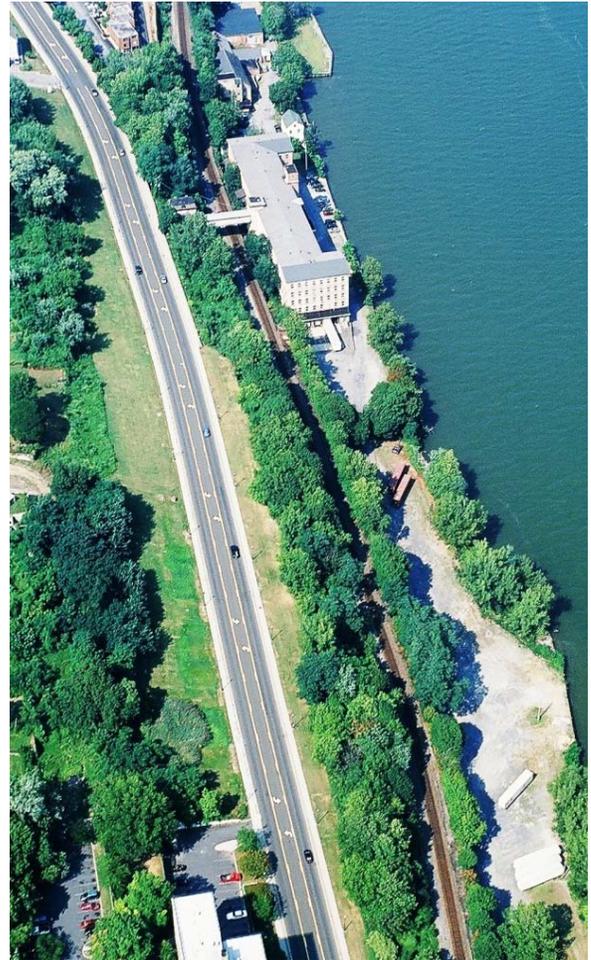


Photo 18: Waterfront properties north of South Street right-of-way, including Regal Bag property.

LOCAL WATERFRONT REVITALIZATION PROGRAM

NEWBURGH WATERFRONT

FIGURE 15: NHMA EXISTING CONDITIONS (PHOTOS 15-18)

SOURCE: GEOFFREY STEADMAN

BEJ Planning



Photo 19: Newburgh Yacht Club and Pier-Loun Condominium near north boundary of Newburgh waterfront and NHMA.



Photo 20: Looking over the north part of the NHMA and the Newburgh-Beacon Bridge over the Hudson River.

3. WATER-DEPENDENT AND WATER-ENHANCED USES

According to the Department of State (DOS), water-dependent uses refer to activities which can only be conducted on, in, over or adjacent to a water body because they require direct access to that water body and involve the use of the water as an integral part of the activity. Water-dependent uses in the waterfront area include the City of Newburgh wastewater treatment plant; the Washington Street boat launch; the Newburgh-Beacon Ferry dock facilities; the First Street Fishing Pier; the Front Street Marina; Newburgh Landing dock and waterfront park; Gull Harbour marina; the South Street Park now in the planning stage for in-water access and the Newburgh Yacht Club. Boat slips are available and accessory to the Pier Loun residential development. Land was made available in 2005 to the Newburgh Rowing Club for the construction of a boat house and launch site at the Ward Brothers Memorial Park.

A water-enhanced use is defined by the DOS as one with no critical dependence on the waterfront, but whose profitability of use and enjoyment level of the users are increased significantly because the use is adjacent to or has visual access to the waterfront. Based on this definition, there are a number of water-enhanced uses in the LWRP area, including the areas adjacent to Quassaick Creek and Muchattoes Lake. Because of Newburgh's topography, many residences in the southernmost and northernmost portions of the LWRP area have excellent views of the Hudson River and surrounding Hudson Highlands. Land uses at the base of Broadway also have river views. The various waterfront restaurants and the waterfront parks are also enhanced by their waterfront location.

4. UNDERUTILIZED, ABANDONED OR DETERIORATED SITES

The LWRP contains a number of vacant and underutilized sites, and much of the redevelopment potential in the City involves these sites. Approximately 30+ acres of these vacant and underutilized parcels are vacant, City-owned land cleared as part of urban renewal projects but never developed. These and other vacant or underutilized sites are discussed in more detail below (see Figure 3).

a. Area A - Southern/Quassaick Creek Area

Underutilized former industrial land is located at the base of the "Heights" area adjoining Quassaick Creek. This area includes the former Provan Ford Site, a DEC-listed Brownfield site. In addition, the steep slopes rising up to the Heights neighborhood are vacant. The City intends for these slopes and the parcels along the Quassaick Creek to remain as open space, and where possible, to create a nature preserve and public hiking trail between the 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. Easements and rights-of-way are being pursued to create this trail. Fishing and wildlife viewing are water-dependent uses that 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. Lakeside Plaza, a shopping center located immediately east of Lake Muchattoes, has a number of vacant storefronts and is in need of redevelopment.

b. Area B - Inland Area

Beginning in the southern portion of the inland area at Overlook Place 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 Rev. Dr. Martin Luther King, Jr. Boulevard between Washington Street, Broadway and Second Street is a large area of vacant urban renewal land generally bounded by Broadway, Grand Street, South Street and Rev. Dr. Martin Luther King, Jr. Boulevard (see Figure 17). Orange County Community College Newburgh Campus (including the former Key Bank building and Maple office buildings) and a private 20-unit townhouse project are west of Colden Street at Broadway. The townhouse development, adjacent to the public safety complex on Broadway, is deteriorating.

Between South Street and Nicoll Street is a large amount of vacant land along Rev. Dr. Martin Luther King, Jr. Boulevard. The NYS Department of Transportation has reconstructed the street and made improvements to the Newburgh-Beacon Bridge, making this area more accessible. On-street parking on Rev. Dr. Martin Luther King, Jr. Boulevard has been provided, 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 that would be suitable for infill development in conjunction with the existing commercial and neighborhood redevelopment and revitalization activities.

c. Area C - Waterfront Area

Several sites along Newburgh's waterfront are vacant, underutilized, deteriorating or abandoned. Vacant properties on and near the waterfront have been specifically

targeted by the City for redevelopment. These include the **Consolidated Iron and Metal redevelopment area** at the foot of Washington Street, next to the Newburgh boat launch. This site, a former landfill, was remediated under the direction of the Environmental Protection Agency. Its shoreline is stabilized with rubble, riprap and broken concrete, with hidden structures and debris in the waters immediately offshore. Redevelopment will provide opportunities for better public waterfront access and removing the structures.

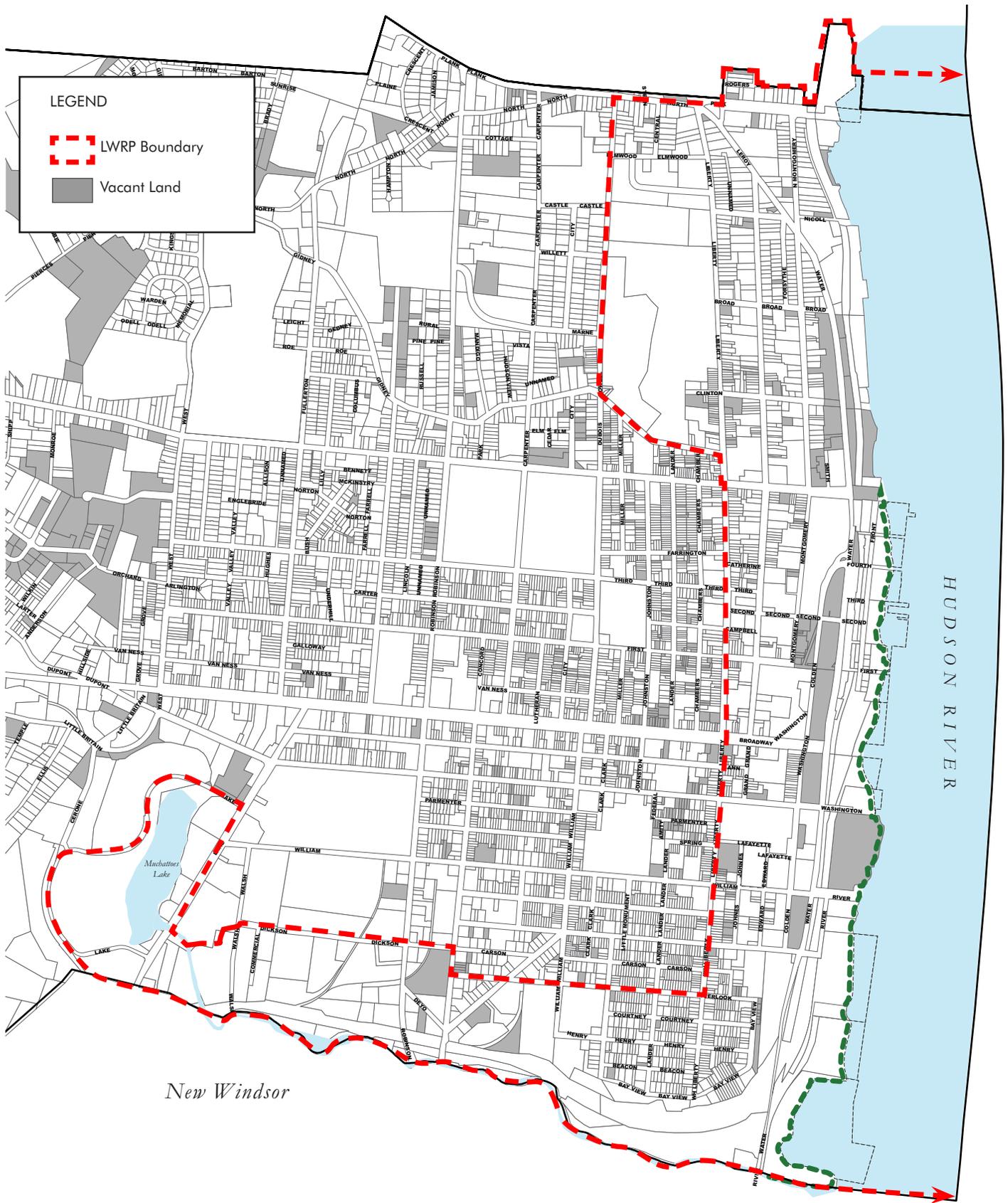
Other properties targeted for redevelopment include vacant land between Colden Street and Rev. Dr. Martin Luther King, Jr. Boulevard and between the boulevard and Montgomery Street. These areas have potential for more intensive water-enhanced and/or water dependent uses. Figure 17 shows the major vacant parcels within the entire LWRP area.

5. PUBLIC ACCESS AND RECREATIONAL FACILITIES

A key element of public access is the Public Trust Doctrine, based on a common law principle that private ownership or other impediments to the public use of certain critical lands and waters should not be allowed. The doctrine generally limits the rights of waterfront property owners below the mean high tide line. Thus, the public has the right to use the waters of the NHMA for navigation, recreation and other purposes, and to access underwater lands (excluding those previously granted for private use).

Newburgh Landing Park, located on the waterfront between Third and Fourth Streets, includes Unico Park (containing a statue of Christopher Columbus dedicated in 1992), restrooms, and the adjacent Newburgh Landing dock, which offers access to the Hudson River for tour boats. The City has plans for additional facilities to be located around the pier area and for improvements to the park's landscaping. The City retained ownership of a 20-foot strip of riverfront property extending from Carpenter Street to South Street and adjoining new commercial development. Construction of the 12-foot public walkway, designed with period lighting, street trees, benches and waste receptacles, was completed in 2001. In addition, a newly constructed public fishing pier is located at the eastern limit of First Street. A public parking area on the west side of Front Street provides access to these amenities.

The City Council dedicated 100 feet of land at the south end of the wastewater treatment plant parcel for a park for public access to the Hudson River, designated as Ward Brothers Memorial Rowing Park, agreed with the Newburgh Rowing Club to improve the property. The new boat house was constructed in 2005.



New Windsor

LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 17: VACANT SITES

NEWBURGH WATERFRONT

SOURCE: BfJ PLANNING



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The Newburgh Yacht Club, another recreational facility, is not easily accessible. Public access by way of Park Place requires traveling a narrow roadway and entering through a single-lane railroad underpass. Inaccessibility limits this area's availability; however a restaurant attached to the club is open to the public.

Although at one time Muchattoes Lake was used for ice skating activities, it is currently not used for recreational purposes, and has limited public access.

Figure 18 shows the City's parks, several of which are within the LWRP area. Table II-1 identifies each item shown on the map. The Master Plan supports the creation of four public river access parks; a fishing pier; and public green space surrounding Crystal Lake, on Muchattoes Lake, along Quassaick Creek and Gidneytown Creek. This goal is recommended to be accomplished via a range of actions, including creation of a Master Park Plan to assess the quantity and quality of park amenities.

Table II-1: Newburgh Parks and Trails (See Figure 18)

Parks	
A 9/11 Memorial Park (Park Place)	L Lake Washington/Masterson Park (Little Britain Road)
B Aquatic Center (Robinson Ave./Washington St.)	M Newburgh Boat Launch (waterfront)
C Audrey Carey Park (Liberty Street)	N Newburgh Landing (waterfront)
D Clinton Square (Fullterton Street)	O Quassaick Creek Estuary Preserve & Trail (proposed)
E Delano-Hitch Recreation Park (Washington/Lake St.)	P Schleiermacher Park (Washington Terrace)
F Delano-Hitch Stadium (Washington/Lake St.)	Q Triangle Parks (Water St. & North St.)
G Desmond Tennis Courts (South Street)	R Tyrone Crabb Park (Grand/South St.)
H Downing Park (Robinson Ave./South St.)	S Unico Park (waterfront)
I Downing-Vaux Park (Broadway/Colden St.)	T Ward Brothers Memorial Rowing Park (waterfront)
J Gidney Avenue Basketball Courts	U Xavier Lunan Park (Courtney Avenue)
K Hasbrouck Street Park	
Trails	
NYSDOT Bike Trail 17	
Hudson River Valley Greenway "Trail of Two Cities"	
Frederick Douglass Trail	
Monumental Newburgh	
Colonial Terraces Walking Tour	
Old Town Cemetery Walking Tour	

Source: City of Newburgh, 2014



LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 18: NEWBURGH CITY PARKS AND TRAILS

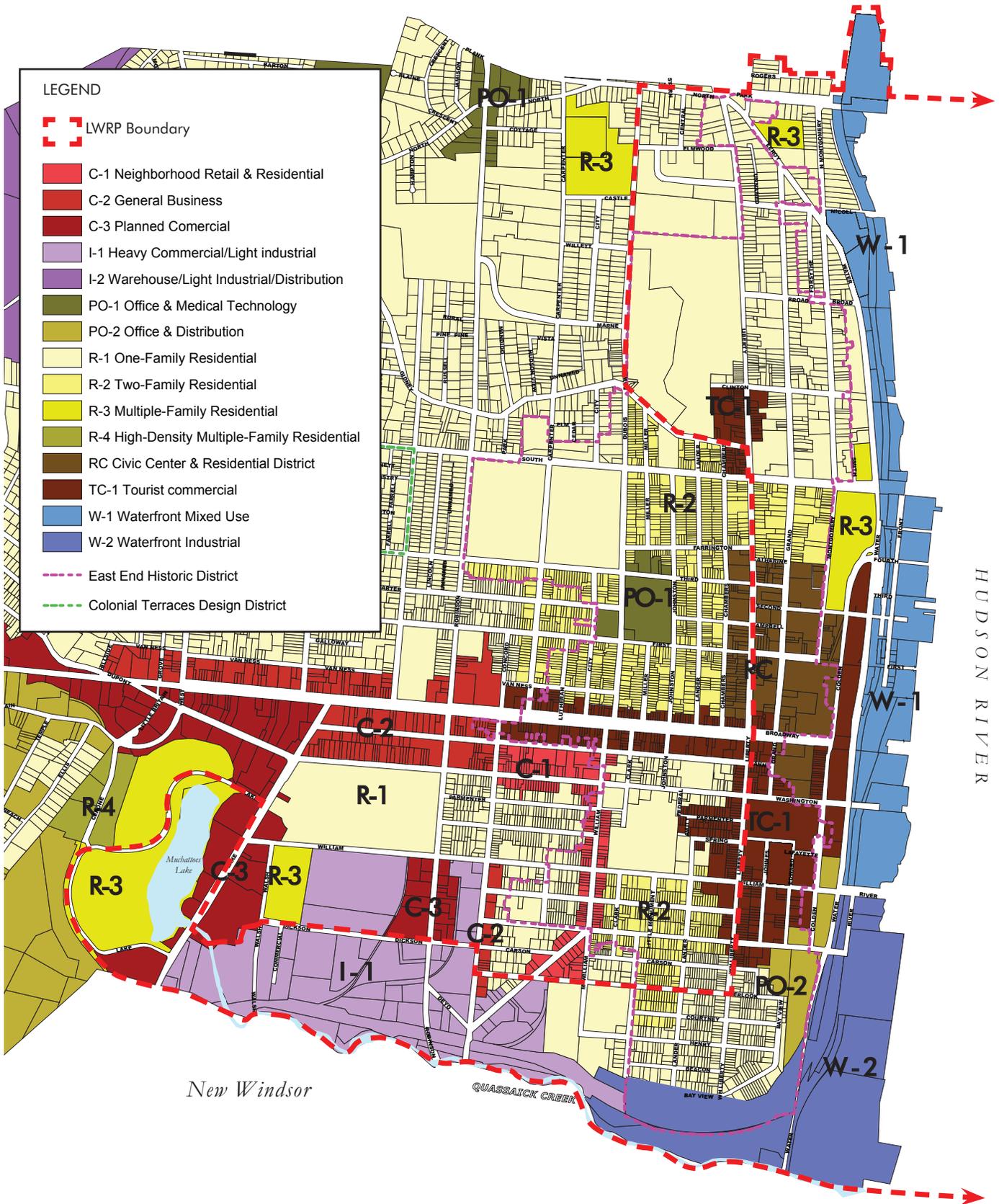


Lastly, there is limited direct public access to the Quassaick Creek area of the waterfront. The City supports the development of a Quassaick Creek Estuary Preserve and Trail, which would establish a nature preserve for fishing and wildlife viewing, and a Greenway Trail to link land currently owned by Orange County in the Town of New Windsor (the former Diamond Candle property) with lands owned by the City and ultimately, if possible, River Road on the east and Robinson Avenue to the west, then eventually farther 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 finish restoring the historic twin-arch bridge spanning the creek at the candle factory parcel 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, municipal-owned parcels will be included in the Estuary Preserve and Trail, with other lands in this area to be added where possible.

6. 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, illustrated on Figure 19. 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.

In addition, a View Preservation Overlay District (see Figure 21) roughly coinciding with the LWRP boundary regulates activities that may affect important vistas in the LWRP area. The current zoning regulations governing the W1 and W2 districts do not promote the broad mix of uses, building heights or densities that are envisioned in both the Master Plan and the Waterfront Development Project as necessary to encourage a sustainable, pedestrian-oriented environment. Design guidelines in the LWRP area currently exist only for the East End Historic District. The City proposed a series of design guidelines in 2002 which, while never adopted, could be a model for future guidelines for the entire LWRP area. Intended to regulate building activities within the proposed Hudson Waterfront Architectural Design District (HWADD), the guidelines aimed to connect new construction along the waterfront with the area's historic use and appearance, while providing design flexibility for modern commercial uses.



LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 19: EXISTING ZONING DISTRICTS

ALBANY, NY

SOURCE: CITY OF NEWBURGH



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The nine viewsheds protected by the View Preservation Overlay District are largely oriented toward the vehicular experience rather than the pedestrian experience. As discussed in Section III (see Policy 25), these views should be more completely described through the use of diagrams that illustrate how they interact with the surrounding environment. There are also a number of other significant views within the LWRP area that may be considered for protection.

Any proposed design guidelines are subject to the regulations in Article V, Historic and Architectural Design Districts, of Newburgh's Zoning Code, which gives the City Council authority to adopt design guidelines for historic or architectural design districts, to guide the Architectural Review Commission in its review of projects located in the district

In addition, the City is in the process of a city-wide update to its Zoning Code. Proposed zoning changes seek to implement the recommendations contained in the 2008 "*Plan-It Newburgh*" Sustainable Master Plan and the 2011 City of Newburgh Future Land Use Plan. As part of the amendments to the Zoning Code, new zoning will be adopted within the City's LWRP area that seek to provide for the redevelopment and adaptive reuse of the City's waterfront as well as those neighborhoods proximate thereto.

7. HISTORIC STRUCTURES, SITES AND DISTRICTS

The first Newburgh inhabitants were the Waoranek band of the Algonquins; these native peoples moved west and north away from the European settlements that followed them at the turn of the 18th century. Newburgh is situated at the eastern boundary of territory purchased from the Algonquins by colonial Governor Dongan in 1684. Within this territory, "The German Patent" of 1714 was the land grant that housed the Palatine refugees from Rhineland, Germany who developed the first European village at what is now Newburgh. They also moved west to find more hospitable farmland, and "The Parish by the Quassaick" evolved into the Village of Newburgh with mostly English, Scottish, Irish and Huguenot settlers building a market town along the Hudson River.

Newburgh was George Washington's longest-held headquarters during the Revolutionary War, chosen because of its strategic location along the river, which the British saw as the prize to capture to split the colonies. Washington's Headquarters State Historic Site is the first state historic site in the nation, designated for protection in 1850 (see Figure 20).

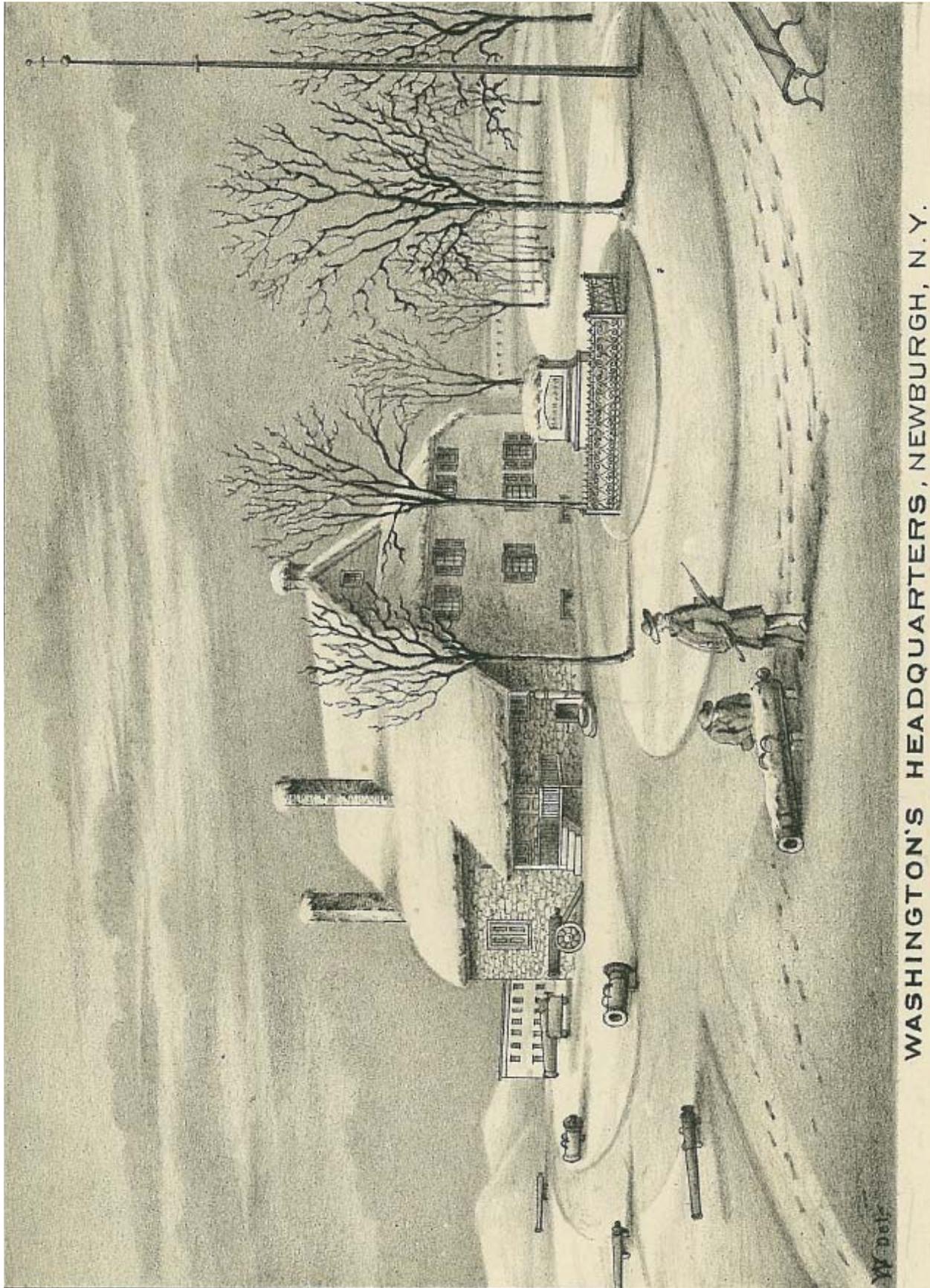
Newburgh is the first town north of the Hudson Highlands with a gradual rise from the shoreline that could accommodate wagons, making it a natural port for goods produced in and shipped to Orange County. With water depths over 20 feet at its shoreline, the city could accommodate large sailing vessels, barges and steamships. Docks, wharves and warehouses filled much of

Newburgh's 18th and 19th century waterfront. Ferry service between Newburgh and Fishkill began in 1743, one of the earliest state ferry charters, serving both local communities and the growing route to New England from this point on the Hudson. By the 1850s, railroad service on the west shore reached south of Newburgh, and by the 1880s was completed through the city via the stone railroad trestle still in use.

Newburgh grew from parish (1709) to village (1800) to city (1865). The city's major industries have been freight forwarding, wool and cotton mills, ship-building, foundries and boiler making to support the ship and railroad industries, clothing and furniture manufacturing, bottling companies, leather and artificial leather production and an Air Force base that fed the economy between World War II and the Vietnam War.

The city saw its population peak just after World War II, at 31,956 people in 1950. Population fell after mid-century from a combination of national and regional factors, including the development of the interstate highway system and suburbs, the loss of American dominance in heavy industry, utility and taxation incentives that pulled industry south and west, the opening of the Newburgh-Beacon Bridge which carried traffic beyond the city limits, the boom in higher-education (making the city's youth compete for far-away jobs) and the closing of the Air Force Base that employed over 6,000 people.

As retail establishments closed in the wake of these declines, vacant buildings dotted the landscape, especially in the old city center. Property was abandoned, converted to inappropriate use or sold to speculators. In the 1950s, the City Council began an urban renewal program prompted by new federal subsidy programs devised to revitalize cities like Newburgh. By purchase, tax foreclosures or eminent domain seizures, the City acquired most waterfront district lands under the urban renewal program. The devastation witnessed during the clearing of over 30 acres in the core of the old city gave rise to the preservation movement to save what was left of 18th and 19th century Newburgh.



WASHINGTON'S HEADQUARTERS, NEWBURGH, N.Y.

LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 20:
HISTORIC VIEW OF WASHINGTON'S HEADQUARTERS

On July 16, 1973, an area at Montgomery/Grand/Liberty Streets was listed on the National Register of Historic Places. It was expanded on September 12, 1985, and is now identified as the East End Historic District. The district, shown in Figure 21, is the largest in the State outside of New York City and includes a large portion of the waterfront area. The district is regulated by a set of design guidelines, updated in February 2008.

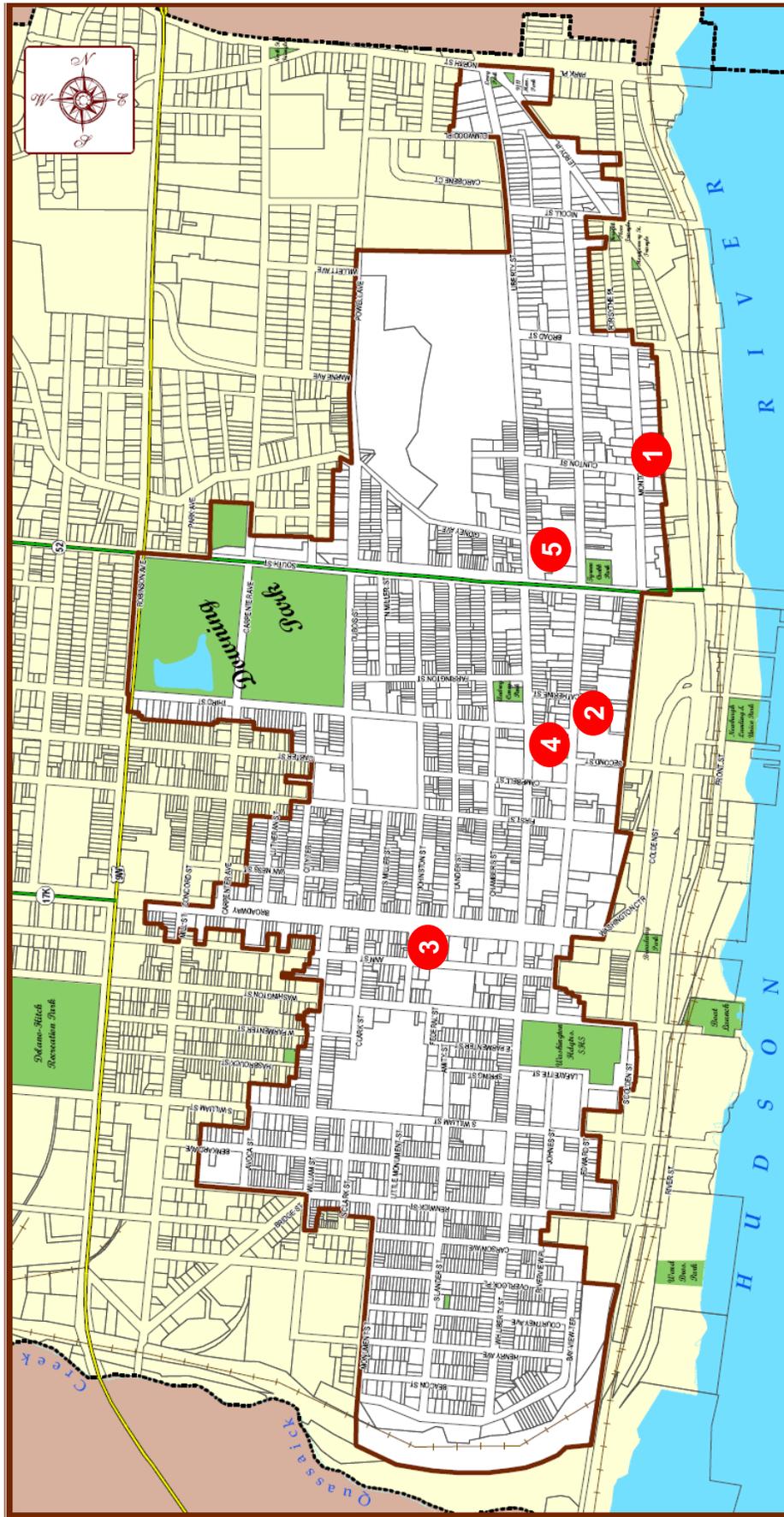
In July 2008, the City of Newburgh published *Preserving Newburgh*, a reference guide for homeowners in the East End Historic District. The public-education brochure, published in both English and Spanish, explains the district's guidelines and "do's and don'ts."

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.

Other structures and sites listed on the National Register include the following (identified on Figure 21):

- 1) David Crawford House - 189 Montgomery Street
- 2) Dutch Reformed Church - Grand and 3rd Streets, NE Corner (designated a National Historic Landmark and also recognized by the World Monuments Fund)
- 3) Newburgh (New York State) Armory – Broadway
- 4) United States Post Office – Newburgh
- 5) Old Town Cemetery – Grand, Liberty and South Streets

In addition, the Old Town Cemetery and Palatine Church site received State Register listing on May 3, 2000.



EAST END HISTORIC DISTRICT

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 DISCLAIMER: Maps and data are provided without warranty. The City of Newburgh does not assume any liability for any damage or loss resulting from the use of this information.

AS PER ORDINANCE NO. 3
 SEPTEMBER 2ND SRD 1 1985
 SRD DISTRICT ENLARGEMENT

Date: 1/7/2025
 Prepared by: City of Newburgh GIS
 Contact: (845) 362-7468
 © Project Manager: UrbanPlanning@cityofnewburgh.org
 E-Mail: CityGIS@cityofnewburgh.org

Scale: 1" = 800 Feet

- National Register-Listed Sites**
- 1 David Crawford House
 - 2 Dutch Reformed Church
 - 3 Newburgh Armory
 - 4 Main U.S. Post Office
 - 5 Old Town Cemetery

LOCAL WATERFRONT REVITALIZATION PROGRAM

NEWBURGH WATERFRONT

FIGURE 21: EAST END HISTORIC DISTRICTS

SOURCE: CITY OF NEWBURGH



0 800 ft

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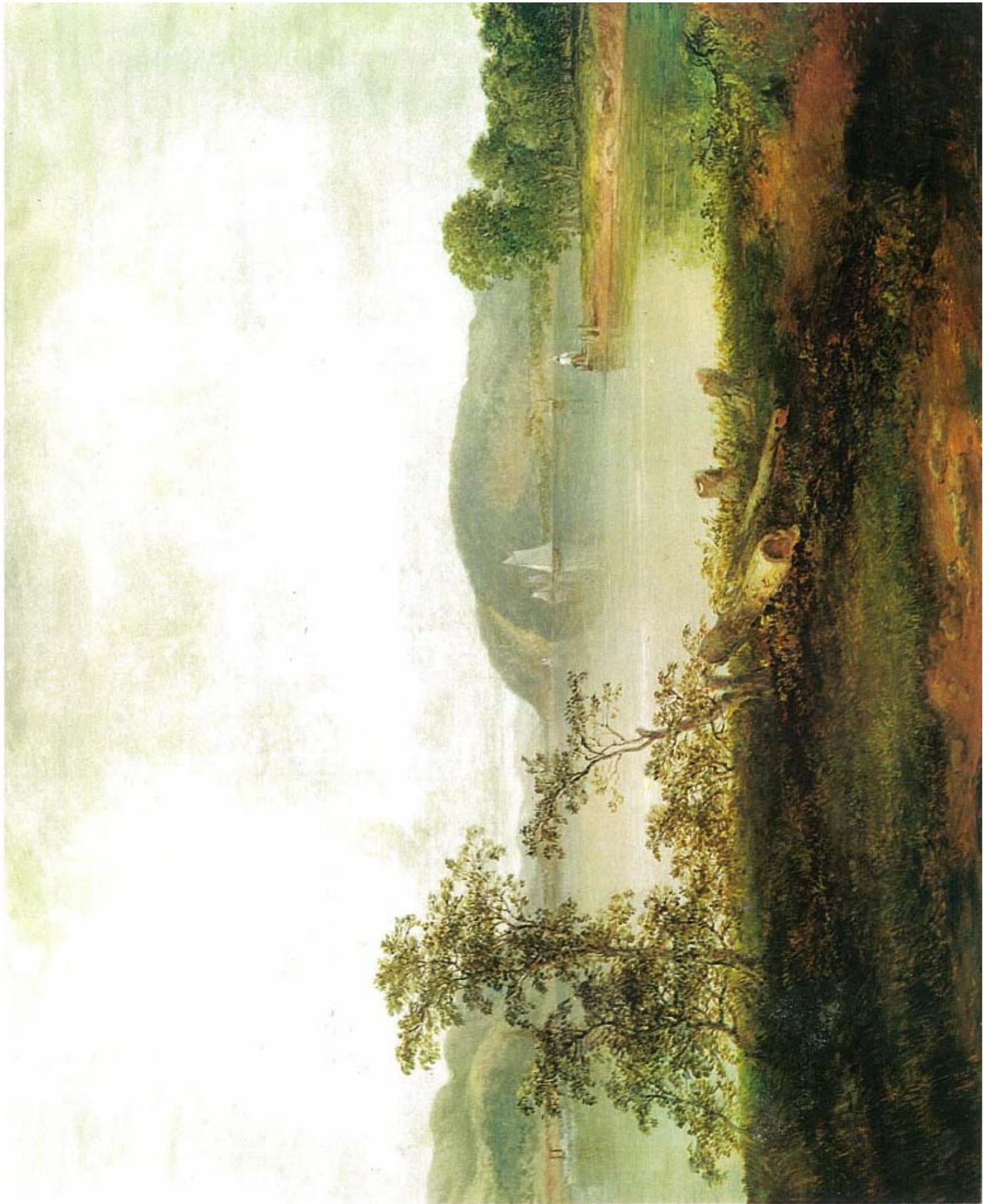
8. SCENIC RESOURCES AND IMPORTANT VISTAS

The scenic quality associated with the NHMA and Hudson River is among the most important of the City's environmental resources. The Hudson River at Newburgh has historically been known for its spectacular panoramic views, including the river and the hills, mountains and Hudson Highlands that surround it. Vistas were so unique that the Hudson River School of landscape painting was formed in the mid-19th century to capture the scenery of the Hudson River Valley and surrounding area, among other areas. An example of this school of painting is shown in Figure 22. As the Hudson River School of painting translated the splendor and power of the river's scenery onto huge canvases, so did the architects of local buildings who 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. A map of this SASS, with accompanying narrative, is found in the appendix to this LWRP.

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.

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



LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 22: VIEW OF HIGHLANDS FROM NEWBURGH,
NEW YORK - THOMAS DOUGHTY

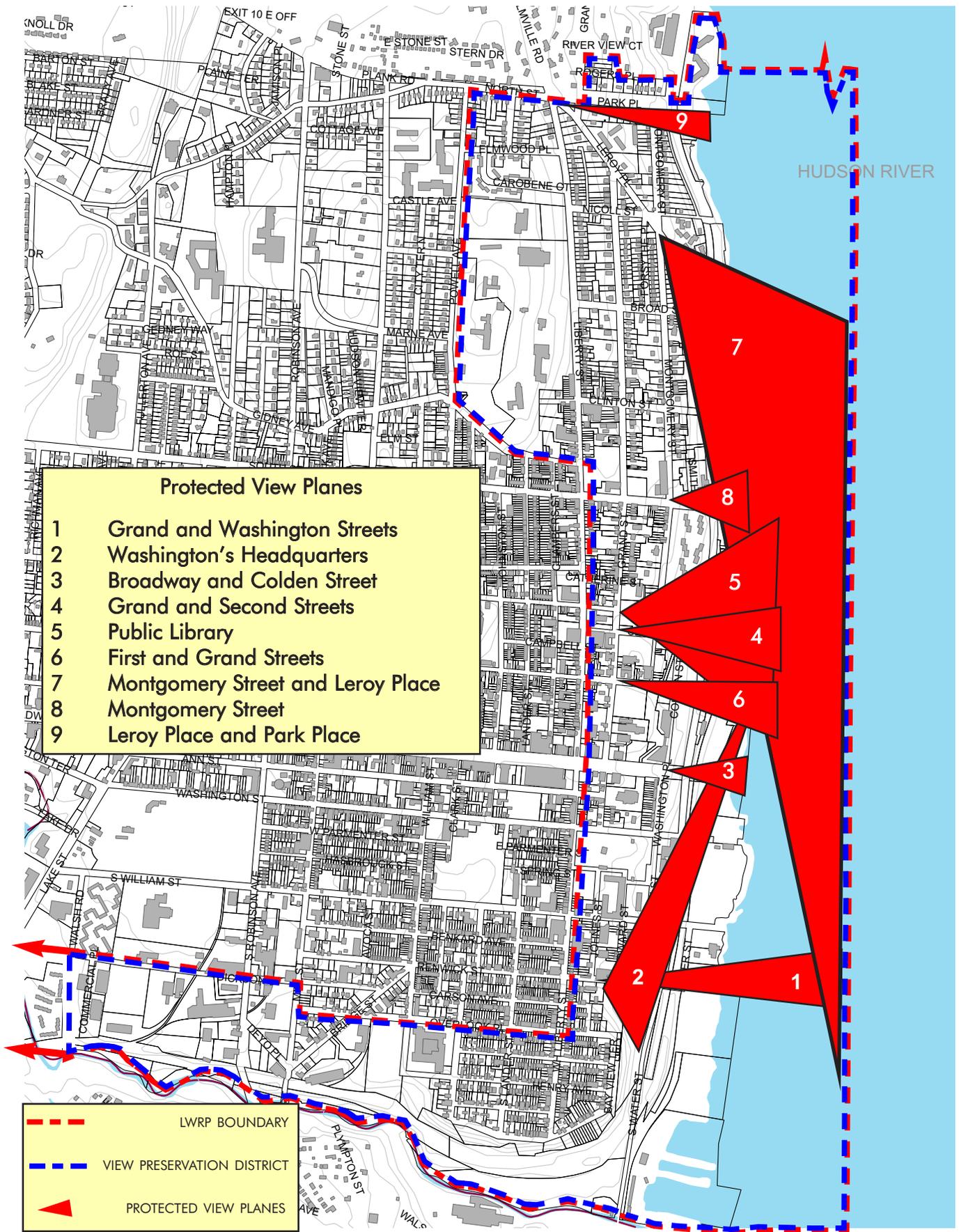
Many of the sites within the Newburgh waterfront area have substantial vistas and panoramic views of the water and surrounding landscape. Because the topography in the City steps up to form plateaus at varying elevations, structures as far west as Liberty Street have visual access to the river in some locations. Developments along the foot of Broadway and on the east side of Montgomery Street have virtually unobstructed views of the river and its surroundings. 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 Overlay District. The boundaries of this district roughly correspond to the LWRP boundaries. The following views within this district have been identified for protection:

- Grand and Washington Streets
- Washington's Headquarters
- Broadway and Colden Street
- Grand and Second Streets
- Public Library
- First and Grand Streets
- Montgomery Street and Leroy Place
- Montgomery Street
- Leroy Place and Park Place

Article VI of Newburgh's Code of Ordinances requires that no building, structure or permanent improvement will be erected; have its exterior reconstructed, restored or physically altered; or be placed within a defined view plane in the View Preservation Overlay District in a manner that may impair or cause significant loss of an existing scenic public view, without obtaining visual site plan approval by the Architectural Review Commission (if in the East End Historic District) or the Planning Board (if outside the district). The article outlines a number of visual site plan standards and procedures for the Architectural Review Commission and Planning Board to follow, including a provision that the Conservation Advisory Council (CAC) (formerly the Waterfront Advisory Committee), will provide the boards with a written advisory opinion and recommendation on the impact of the proposed activity on views of the Hudson River, Hudson Highlands and east bank of the river.

The View Preservation Overlay District is shown in Figure 23; as discussed, it is expected to be amended in a future zoning code update (see LWRP Policy 25). In considering adding potential views for protection, protected views should be limited to those from public and publicly accessible locations, and should not include private residences or places of business.



LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 23: VIEW PRESERVATION DISTRICT

Under SEQRA, views from the following are potentially significant:

- Land dedicated to and available to the public for the use, observation, enjoyment and appreciation of natural or manmade scenic qualities
- Site or structures listed on the National or State Registers of Historic Places
- State parks and forest preserves, and municipal parks or designated open space
- National wildlife refuges and State game refuges
- National natural landmarks and other outstanding natural features
- National Park Service lands
- Rivers designated as National or State wild, scenic or recreational
- Any transportation corridor of high exposure, and county, State or local roads
- A governmentally established or designated interstate or inter-county foot trail, or one formally proposed for establishment or designation
- A site, area, lake, reservoir or highway designated as scenic

9. ENVIRONMENTAL CONDITIONS

The most profound influence on environmental conditions and resources associated with the LWRP area is the Hudson River. Called “Muhheakantuck,” (“river that flows two ways”) by Native Americans, the river is tidally influenced as far north as Troy, New York – a distance of 160 miles from the Narrows at the mouth of the river at New York City and the Atlantic Ocean. The river’s tidal region, including the NHMA, is part of the Hudson River Estuary, a rich ecological system formed in part by the mixing of freshwater from the river with saltwater from the ocean. The State’s Hudson River Estuary Program was formed to conserve its natural resources and sustain their benefits, and is implemented through a partnership of governmental agencies and private organizations directed by the DEC.

Prominent environmental conditions and resources of the NHMA can be described with respect to surface water resources and quality, fish and wildlife habitat, wetland resources and the ongoing natural processes of flooding and shoreline erosion. The natural resources of the Hudson River and its Quassaick Creek tributary provide a variety of irreplaceable ecological functions as well as significant cultural and economic values.

a. 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. These slopes result in a topographical change of up to 300 feet within the northern section of the LWRP area. A major portion of Mount St. Mary College, for example, is situated 240-300 feet above the shore line, providing

extensive views across the Hudson River Valley. As noted earlier, the residential district bounded by Bay View Terrace and Overlook Place at the south end of the LWRP area also has scenic views of the river and surrounding Highlands. Figure 24 illustrates the City's topographic pattern.

i. Area A - Southern/Quassaick Creek Area

In this area, steep slopes are prevalent between the creek, railroad line and Bay View Terrace. The terrain rises from river level to an elevation of approximately 140 feet above msl at the edge of a plateau. 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 fronting 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.

ii. Area B - Inland Area

As discussed, 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 would indicate that river view properties are desirable locations in the city, and worth the necessary investment to rehabilitate and reuse them.

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.

iii. Area C - Waterfront Area

Topography in the waterfront area, between the river and the railroad lines/Rev. Dr. Martin Luther King, Jr. Boulevard, 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.



LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 24: ENVIRONMENTAL FEATURES

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 Rev. Dr. Martin Luther King, Jr. Boulevard.

b. Soil and Bedrock Formations

According to the Development Considerations 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 Rev. Dr. Martin Luther King, Jr. Boulevard on the east, Nicoll 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 Rev. Dr. Martin Luther King, Jr. Boulevard.

c. 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 (see Figure 24).

A Flood Insurance Rate Map (FIRM) is prepared by FEMA for each municipality which illustrates the Special Flood Hazard Areas, or areas subject to inundation by a flood having a 1 percent or greater probability of being equaled or exceeded in 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. In any 30-year period, the chance 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.

Flooding and shoreline erosion are natural, ongoing processes that will continue to affect the City's shoreline. 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. Sections of the City's Hudson River waterfront, including most of the filled and bulkheaded areas, are within the 100-year flood hazard area. That boundary generally remains close to the water's edge and, as a result, the risk of flooding is generally not considered to be a significant threat to waterfront development. Structural shore protection measures such as bulkheads, revetments and seawalls, however, are required in many waterfront locations to protect existing development from ongoing erosion and to maintain the viability of water-dependent uses. The 100-year flood boundary also includes undeveloped areas along 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. Because this lake is manmade and drains into Quassaick Creek via a spillway, it does not experience significant problems with flooding or erosion.

d. Freshwater Wetlands

The United States Fish and Wildlife Service (USFWS) prepares National Wetland Inventory (NWI) maps identifying potential locations for wetlands within a community. 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 found at locations along Quassaick Creek (see Figure 24).

e. Water Quality

The quality of surface water in the NHMA has a profound impact on the City's overall quality of life as well as waterfront land use, and nearly all water uses. In recent years, there have been a number of accomplishments in understanding and improving water quality conditions in the Hudson River and the NHMA.

Nevertheless, pollution and the risk of pollution still exist. Bacteria and other pollutants can affect the enjoyment of boating activities, the vitality of fish and wildlife, and the health of those who come in contact with the water. Simply stated, water pollution in the NHMA would diminish the quality of life and should be of concern to all citizens.

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

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

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.

Potential sources of pollution in the NHMA are categorized as "point" and "non-point" sources. Potential point sources are easily identified and include discharges from storm drains that empty into the NHMA, as well as treated discharges from the City's water pollution control plant. While the City's combined stormwater and sanitary sewer system remains a significant water quality issue, the City is pursuing its adopted plan (pursuant to DEC requirements) for managing, regulating and improving stormwater discharges, including discharges from the 11 DEC-permitted City outfalls that allow combined stormwater and wastewater to enter the NHMA during periods of heavy rain. The City is also pursuing initiatives to eliminate the combined overflows over time in accordance with state and federal requirements.

Other potential point sources of pollution include discharges of treated and untreated sewage from vessel holding tanks. All such discharges would be illegal under federal law as the U.S. Environmental Protection Agency has designated the Hudson River as a no-discharge zone within which no sewage, treated or untreated, may be discharged from any vessel.

Unlike point sources of pollutants, "non-point" pollution does not originate from a specific identifiable source, and because of its nonspecific nature is more difficult to regulate and control. Types of non-point source (NPS) pollution include stormwater runoff from roads, parking lots, backyards and other surfaces. As precipitation runs off pavement and land into the NHMA, it gathers oil, bacteria, sediment and other substances that eventually enter the water.

The drainage area of the Hudson River encompasses over 13,000 square miles. Thus, actions that take place far from Newburgh's jurisdiction can contribute to pollution in the NHMA. However, just as the actions of all communities and individuals within the

river's watershed can affect the quality of water in the river, so can the actions of all those communities and individuals, including Newburgh and its residents, contribute to maintenance and improvement of water quality.

f. Significant Fish and Wildlife Areas

There are no state-designated Significant Coastal Fish and Wildlife Habitats in Newburgh. However, the tidal waters and underwater lands in the NHMA provide fish and wildlife habitat of special ecological, recreational and commercial value. The well-known striped bass that spawns near Newburgh in the spring and then returns to sea is just one of the more than 200 species of finfish identified in the Hudson River estuary. Many of these species reside in or migrate through the NHMA, including anadromous fish (species that migrate from the ocean to freshwater for spawning, such as the striped bass, alewife, America shad, America smelt, blueback herring, Atlantic sturgeon, and shortnose sturgeon); catadromous fish (species that migrate from freshwater to the ocean to spawn, such as the America eel); and resident freshwater fish. These fish are part of the estuary's natural food chain that includes the eagles, ducks, herons and other birds that feed on them.

Quassaick Creek also provides valuable fish and wildlife habitat, including habitat for birds, mammals, reptiles and amphibians. According to the New York State Department of Environmental Conservation's Hudson River Estuary Program, "the Quassaick Creek corridor provides an important habitat for fish and wildlife worthy of conservation."³ East of Rev. Dr. Martin Luther King, Jr. Boulevard, 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 Rev. Dr. Martin Luther King, Jr. Boulevard 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 eagles 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 of fish have been documented in the creek, which provides spawning habitat for blueback herring and other species within its tidal reach.

³ James G. Barbour, *Biodiversity Survey and Natural Resources Inventory and Assessment. Final Report, Quassaick Creek Estuary Preserve and Trail Project, 2004. City of Newburgh, NY, funded by New York State Department of Environmental Conservation.*

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 USFWS 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 Rev. Dr. Martin Luther King, Jr. Boulevard 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.

10. 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 a regulatory requirement 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 Rev. Dr. Martin Luther King, Jr. Boulevard and the Hudson River. The City's incinerator is located on this site as well, but at the present time it is inoperative.

Between 1970 and 1972, 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 11 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 combined stormwater/sewage system serving the area results in periodic discharge into the Hudson River in heavy storm conditions. Remedial steps are currently under review by the City to address this issue.

11. TRANSPORTATION

The City of Newburgh is well situated and served by a regional transportation network. I-84 is located just north of the City and may be accessed via interchanges with the town road extensions of Robinson Avenue and DuBois Street. 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 it with the Towns of New Windsor and Cornwall to the south, and the Town of Newburgh to the north. In addition, Newburgh is accessible to the region, country and abroad via Stewart International Airport which is located in the Towns of New Windsor and Newburgh, approximately five miles west of the City. Planned as a fourth New York City airport, Stewart International currently handles over 300,000 passengers annually, with a future capacity to accommodate 1.5 million travelers a year. The Port Authority of New York and New Jersey has purchased the operating lease at the airport, making it responsible for the future expansion of services and passenger use.

In terms of roadway improvements, the New York State Department of Transportation (NYSDOT) completed three projects which affected Newburgh's regional and local significance: 1) the Newburgh-Beacon Bridge Expansion; 2) the Route 9W/I-84 interchange improvements; and 3) the Rev. Dr. Martin Luther King, Jr. Boulevard 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 Rev. Dr. Martin Luther King, Jr. Boulevard also eliminated on-street parking.

Rail transportation in Newburgh is limited to freight service only on the West Shore Line (CSX). At one time, passenger service was available, and trains stopped at the Newburgh Train Station located on the east side of Rev. Dr. Martin Luther King, Jr. Boulevard between First and Carpenter Streets. This architecturally attractive building is now occupied by a thriving Pizza Shop and community theater venue and has been renovated from its formerly vacant and deteriorated condition. The West Shore Line is currently operated by CSX, which is actively promoting rail to truck container shipping. Passenger rail service is presently available via rail stations located in Beacon (Metro-North) and at Salisbury Mills/Cornwall (New Jersey Transit). As noted in the introduction to this section, ferry service now operates between Newburgh and Beacon connecting Newburgh to Metro-North trains in Beacon. The City is interested in pursuing possible future transit connections linking Stewart International Airport to the Newburgh ferry via the Broadway Corridor.

Bus service operated by the County, is available within the City of Newburgh; however, routes extend eastward only as far as Grand Street and do not extend to the waterfront.

Other than ferry service, water transportation is limited to small watercraft and an occasional barge. Small watercraft can dock either at the Newburgh Yacht Club or launched from the reconstructed boat launch at Washington Street. Boats may dock temporarily or seasonally at Newburgh Landing, the Front Street Marina, Torches on the Hudson Restaurant or at the Yacht Club. In the summer, Newburgh Landing is being renovated following ice damage for use by tour operators that provide boat cruises on the Hudson River and other possible larger vessel uses.

12. AFFORDABLE HOUSING

Over the 10-year period ending in 2012, Orange County witness the strongest job growth, within the Hudson valley region, at 0.86% per annum, followed by Putnam, Rockland and Westchester counties at 0.62%, 0.47%, and 0.21%, respectively. Statewide, Orange County ranked 17th in job growth. In the year 2012, Orange County accounted for 15.1% of all jobs in the Hudson Valley and 1.53% of all jobs in New York State⁴. The County had the second fastest population growth of any county in the State between 2000 and 2010, with a 9.4% gain. For the Hudson Valley as a whole, the population increased by 5.2% during this period, compared to a 2.2% gain Statewide.

The increased population growth has brought with it a host of housing availability problems in the Hudson Valley and the City of Newburgh. Affordable housing is a major concern for the area. New development projects geared toward a high-end buyer are causing housing costs in the area to escalate, making affordable housing, for purchase or rental, difficult to find. The City of Newburgh currently has affordable housing that should be preserved. In 2008, the estimated median household income in the City was \$35,350, far below the County level of \$68,329 and more than \$16,000 less than the nation as a whole. Therefore, the City has a unique need to maintain affordable housing without hindering the growth of the tax base. Likewise, in considering the definition of “affordable housing”, the City should keep in mind that its residents have lower yearly incomes than other nearby areas.

The City’s adopted Sustainable Master Plan proposes a number of measures to assure the long-term availability of affordable housing opportunities, including: adopting an affordable housing ordinance to establish a mechanism for creating and supporting permanently affordable housing units; providing that at least 10 percent of the City’s housing stock contains affordability provisions (as in the provisions of the Newburgh Waterfront Redevelopment Project); enacting inclusionary zoning measures; establishing a Community Land Trust, cooperative housing or other form of local ownership; and rent stabilization. It is assumed that the City will be drafting these proposed housing measures as it begins implementing the Sustainable Master Plan. In addition, all housing within the City of Newburgh, including the coastal area, shall conform to Chapter 190 of the Code, also known as the Minimum Housing Standards Ordinance.

13. PLANNING ISSUES

There are a number of planning issues that influence planning and development activities within the LWRP area. These issues consist of both constraints on and opportunities for physical development, as well as issues that are more programmatic and policy-oriented in nature. The following description of planning issues is categorized by issues affecting each of the general

⁴ Marist College, 2014. “*Special Report, Employment in the Hudson Valley 2012.*”

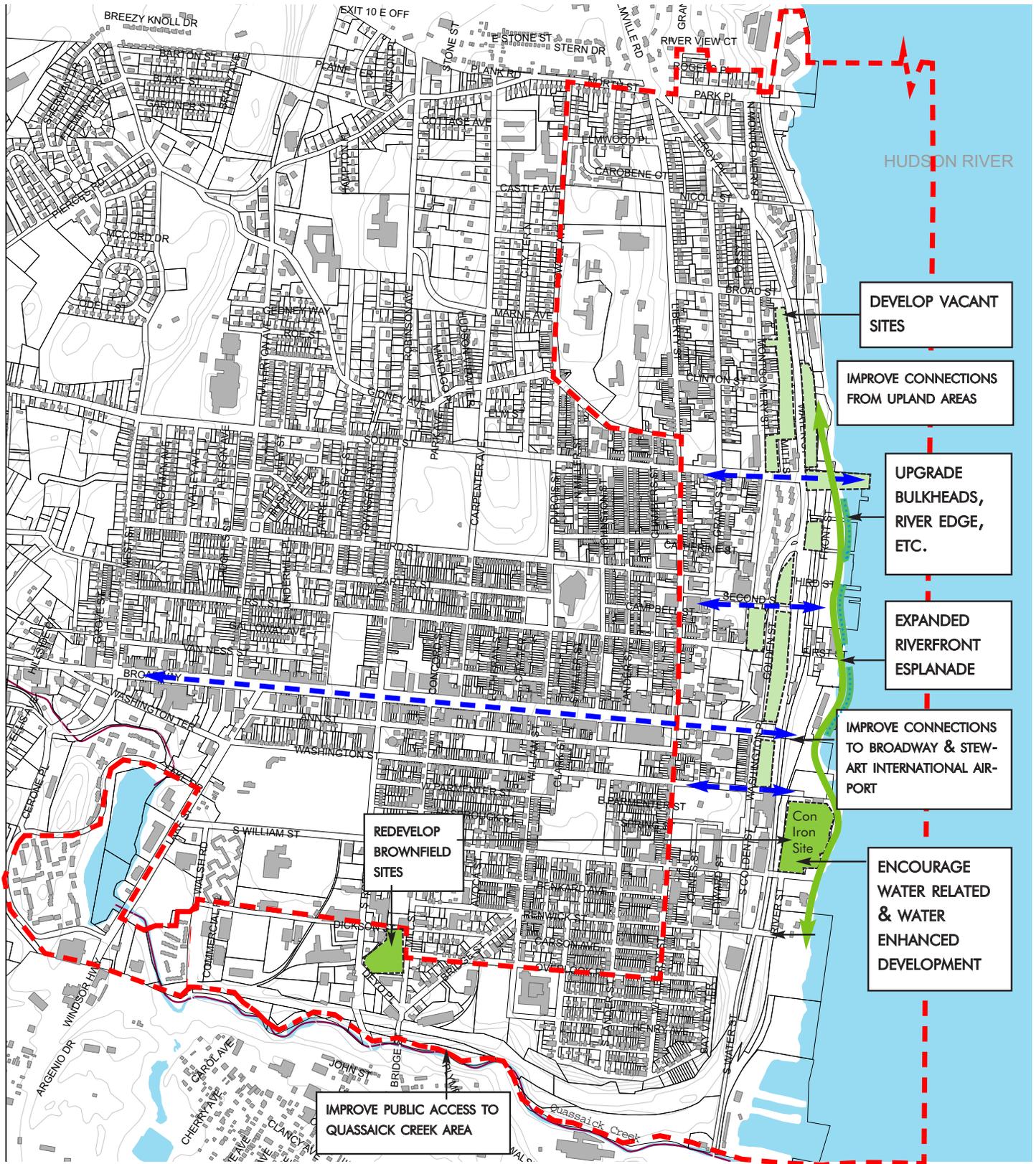
land use areas (A, B and C) and for the LWRP area as a whole. Figure 25 presents a broad overview of the planning issues, including the following items:

a. Area A - Southern/Quassaick Creek Area

- Limited public access is currently available along Quassaick Creek; additional public access points are needed.
- 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 Quassaick Creek and Muchattoes Lake and adjoining forested steep slopes.

b. Area B - Inland Area

- There are vacant, deteriorated and underutilized parcels scattered throughout the inland area, including a number of structures in the vicinity of Washington's Headquarters. Improvements in this area are needed to enhance the historic character and context for this important historical site.
- Continued façade and streetscape improvements are needed along the Lower Broadway corridor. Infill development should be designed to encourage pedestrian activity along the street.
- The Lower Broadway corridor lacks a strong physical connection to the waterfront area.
- Substandard housing in the Inland Area requires rehabilitation.
- Many historic structures in the East End Historic District need renovation.
- Coordination between the LWRP and the Heritage Development Initiative, including the Liberty Street Improvement Project is needed.



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FIGURE 25: PLANNING ISSUES

c. Area C - Waterfront Area

- There are a number of deteriorated and underutilized parcels along the Hudson River. These sites include the former scrap metal salvage yard (Consolidated Iron Site) that has undergone Brownfield Remediation, the Regal Bag Building undergoing new uses as artist studios and spaces, the City Incinerator site and the underutilized Steel Style Shipyard. These sites should be studied for reuse.
- A number of former industrial and utility sites (i.e. Brownfield sites), including the City Incinerator site, may require environmental remediation prior to reuse for their intended land uses and public access.
- Additional water-dependent and water-enhanced development should be encouraged.
- Existing public access to the shore needs to be improved and expanded. New public access should be integrated into redevelopment projects.
- River views need to be protected in response to guidelines contained within the View Preservation Overlay District (see Figure 23); these guidelines should be reviewed and amended as part of the future zoning update (see LWRP Policy 25).
- 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 or other Newburgh location should be explored.
- A shortage of parking has been experienced as use of the waterfront has increased. Parking demand should be monitored on a regular basis to ensure an adequate supply of parking facilities.
- Improvements to existing bulkheads, parking areas, pedestrian amenities and other shoreline elements in the area should be provided.

- The West Shore Line (CSX) right-of-way, trestle and rail bed need upgrading and maintenance. A project has begun to enhance the rail bed and provide increased access via improvements to one of the walkways under the trestle at 4th Street.

d. Entire LWRP Area

- There is a need to improve and strengthen public access throughout the entire LWRP area.
- Improve quality of landscape treatments, streetscape, pedestrian-scape, and architectural design in order to establish a high quality LWRP area.
- Expansion and enhancement of pedestrian links between the waterfront and upland areas.
- Consistency between the use and development of private parcels and public elements within the waterfront and upland area.
- Continued improvements to the transportation elements within the LWRP area; transit links among the waterfront, upland areas, downtown, the Broadway Corridor and Stewart International Airport should be pursued.
- Review and amendments to the View Preservation District Overlay guidelines should be undertaken as part of a zoning update (see LWRP Policy 25).
- Continued creation and preservation of affordable housing in the LWRP.
- Redevelopment planning should be undertaken to address Brownfields (i.e. Consolidated Iron Site, Provan Ford Site) in the LWRP area. Coordination is needed between the LWRP and the City's redevelopment activities for these sites undertaken via the Brownfields Opportunity Areas Program grant.
- New waterfront development will require costly infrastructure upgrades. The City should continue to pursue a variety of funding sources and public/private partnerships to encourage development and revitalization.
- Water supply, sanitary and stormwater sewer facilities, telecommunication and other infrastructure improvements should be upgraded as redevelopment occurs along the waterfront.

- Promote development of job training programs, inclusionary zoning or other affordable housing programs and asset development programs.
- Improvement of public utilities and infrastructure is needed in the LWRP area to accommodate growth and sustain development within the area.
- Sustainable building practices and green building design should be encouraged for all projects within the LWRP area.

e. Harbor Management Issues and Planning Considerations

This section describes issues affecting the use and conservation of the NHMA. Included are the harbor management issues identified and discussed by the Newburgh Waterfront Advisory Committee (WAC), now the Conservation Advisory Council (CAC), and other City agencies in the course of updating the LWRP and preparing the Harbor Management Plan (HMP).

Some issues may require prompt attention; others may be of more significance in the future or require longer-term approaches. All are addressed through the City’s harbor management goals, objectives and policies in Section III of the LWRP. The issues are grouped into seven categories related to:

- environmental quality and resources;
- public health, safety, and welfare;
- the “institutional framework” for harbor management;
- water use and navigation;
- recreational boating;
- public access; and
- waterfront land-use and development.

There are inter-relationships among the above categories and among the issues within each category. The HMP cannot identify every issue likely to affect the NHMA in the future, nor can it provide a definitive answer to every possible problem. The HMP provides a policy- and decision-making framework to guide the City’s actions, including case-by-case decision-making by City agencies, as well as actions by state and federal agencies. The framework is flexible and will require modification over time as conditions change and the City’s response to harbor management issues continue to evolve.

The order in which the categories and issues are presented does not imply priority.

i. Environmental Quality and Resources Issues

a) Conservation of Coastal Resources

The preservation and, where possible, enhancement of Newburgh's natural coastal resources should be principal considerations in any decisions affecting use of the NHMA and waterfront.

b) Potential Conflicts between Environmental Conservation Goals and Goals for Water and Waterfront Use and Development

Conflicts may arise when pursuing the often-competing goals of environmental conservation and water and waterfront use and development; these goals should be balanced.

c) Carrying Capacity of the Natural Environment

“Carrying capacity” refers to the amount of use or development that a particular area or resource can accommodate before unacceptable impacts on environmental quality, public safety, beneficial use or other conditions occur. The environmental carrying capacity of the NHMA is not unlimited, and there are a number of potential environmental impacts associated with in-water uses and waterfront activities. Those impacts can be caused by: 1) the construction, maintenance, and operation of water access facilities such as docks, floats and piers; 2) boating uses and activities that can generate noise, wake and pollution; 3) non-point sources of pollution caused by runoff into the NHMA from upland areas; and 4) development that interferes with scenic views of the Hudson River or detracts from the scenic character of the NHMA.

While it is difficult to precisely determine the amount of future use and development that can occur in and adjoining the NHMA before adverse environmental impacts become unacceptable, environmental carrying capacity should be an important consideration in future decisions by City agencies and others regarding use and development of the NHMA and waterfront.

d) Cumulative Impacts on Environmental Resources

When considering the carrying capacity of the NHMA and waterfront for water access facilities and boating and other water uses, consideration should be given to the cumulative impacts that can result from individually minor but collectively significant actions occurring over a period of time. Seemingly insignificant impacts of apparently small-scale dock, pier and shore protection structures, as well as discharges from individual storm drains, runoff from waterfront properties, groundwater transport of household and lawn pollutants and other activities could, over time and when combined, significantly affect environmental quality in the NHMA.

e) Improvement and Maintenance of Water Quality

Sources of pollution are generally categorized as “point” and “non-point” sources. Potential “point” sources are easily identified and include discharges from storm drains emptying into the NHMA as well as discharges of treated wastewater from the City’s water pollution control plant. While the City’s combined stormwater and sanitary sewer system remains a significant water quality issue, the City is pursuing its adopted plan (pursuant to New York State DEC requirements) for managing, regulating and improving stormwater discharges, including discharges from the 11 DEC-permitted City outfalls that allow combined stormwater and wastewater to enter the NHMA during periods of heavy rain. The City is pursuing initiatives to eliminate the combined overflows over time in accordance with State and federal requirements.

Other potential point sources of pollution include possible fuel spills from recreational and commercial vessels and sewage discharges from vessel holding tanks. The extent to which any of these discharges may contribute to water quality problems in the NHMA is not known, but there is generally concern wherever there is a concentration of docked or moored vessels.

“Non-point” pollution (NPS) does not originate from a specific identifiable source and is more difficult to regulate and control. Types of NPS include stormwater runoff from roads, parking lots, back yards and other surfaces, and groundwater transport of household and lawn pollutants. As precipitation runs off pavement and land directly into the

NHMA or into the nearest catch basin draining to the NHMA, it gathers oil, bacteria, sediment and other substances that eventually enter the water.

Non-point pollutants also include floating debris and other trash improperly discarded and floating on the water. In addition, any contaminants such as lead paint chips and metal shavings entering the river associated with repair and maintenance of the Newburgh Beacon Bridge are another potential water quality issue of concern.

With regard to all existing and potential sources of point and non-point pollution, seemingly minor sources may, when added together over time, have a significant cumulative impact on water quality. Because the drainage area of the Hudson River encompasses over 13,000 square miles, actions that take place far from the City's jurisdiction can contribute to pollution in the NHMA.

f) Conservation of Fish and Wildlife Resources

Given the extent and significance of the fish and wildlife resources in and near the NHMA, decisions affecting use of the NHMA and waterfront should take into consideration the potential impacts on those resources caused by cumulative development impacts, water pollution, human disturbances, overfishing and other conditions. Any future proposals that would disturb aquatic areas along the shoreline, for example, will require careful review and be subject to specific requirements designed to reduce adverse environmental impacts on fish and wildlife habitat.

ii. Public Health, Safety and Welfare Issues

a) Carrying Capacity of the NHMA for Safe Boating and Other Water Uses

In addition to the above-described considerations regarding the environmental carrying capacity of the NHMA and waterfront, issues concerning the carrying capacity of the NHMA for safe boating and other water uses are also recognized. Carrying capacity may be discussed with respect to the capacity of surface water areas in the NHMA and Hudson River to accommodate boating and other water uses

without the occurrence of adverse impacts on public safety and navigation.

It is generally not possible to determine the carrying capacity of a specific waterbody for navigation, except on the most site-specific basis to precisely determine the amount of future boating use that can occur before adverse impacts become unacceptable. However, carrying capacity is an important consideration in future decisions by City agencies and others concerning waterfront development and use of the NHMA, including decisions affecting the development of new or expanded water-dependent uses.

b) Vessel Speed and Wake

Speeding boats and excessive wakes in the NHMA, especially near the shoreline or other vessels, will adversely affect public safety and the enjoyment of boating and other water activities. Excessive wakes can also damage waterfront structures and docked vessels. Requirements for vessel speed and wake near the shoreline and in proximity to other vessels are established in the State boating laws and regulations. These laws and regulations must be effectively enforced by the City's Police Department and other authorized law enforcement agencies and through increased public awareness.

c) Emergency Planning and Response

There is an ongoing need to maintain effective and coordinated capabilities to assist vessels in distress and to prepare for and respond to other emergencies in the NHMA. City agencies such as the Police and Fire departments require adequate capital and operating budget resources and suitable facilities for access to the NHMA, including boat docking, launching and landing facilities.

d) Water-Use Conflicts and Congestion

Within the NHMA there is the potential for congestion and conflicts among the different types and sizes of vessels using the surface waters and traveling to and from public and private water-dependent facilities. Potential conflicts exist between commercial and recreational vessels, as well as between power boating and non-motorized water activities

such as rowing and kayaking. If these sorts of conflicts should arise, and boating conditions in and near the NHMA become congested on a regular basis, this would indicate that the carrying capacity of the NHMA for safe boating use is being approached or exceeded. These issues may become more significant as new and expanded water access facilities may be established on the City's waterfront.

e) Flood and Erosion Hazards

While much of the waterfront is stabilized with structural shore protection structures, there is a need for continued attention to flooding and erosion processes and for appropriate measures to mitigate their adverse impacts, including regular maintenance of the existing shore protection structures. The City's zoning regulations provide for the control of development within the waterfront flood hazard areas identified on the Flood Insurance Rate Map and establish standards and restrictions for land uses in the designated floodplain. While structural measures such as seawalls and revetments are necessary in some locations to protect existing development, they can also have adverse impacts and must be carefully planned and constructed. Permits from the USACE and DEC are required to construct such measures. "Bio-engineered" shore protection treatments may also be considered as more natural alternatives to structural measures in some locations.

f) Risk of Fuel and Materials Spills

Shipments of petroleum products account for a significant and increasing amount of waterborne commerce in the Hudson River. Additional risks are resulting from increased railroad shipments of petroleum products on the west shore rail line. Due to the potential for accidental spills from vessels transporting petroleum products through and nearby the NHMA, specific procedures and requirements are needed for guarding against and responding to fuel spill emergencies in the Hudson River. There is also a potential for accidental spills from recreational and excursion vessels using the NHMA and for fuel and other hazardous materials that may be spilled on land to enter the NHMA through storm drains and direct discharges. A coordinated effort by local, State and federal agencies acting with the private sector is needed to maintain effective preparedness for, and provide effective

response to, any fuel and materials spills that may occur in and near the NHMA. Access by local responders to information about shipments of hazardous materials will inform spill response efforts.

g) Obstructions or Hazards to Navigation

There is a need for continued and ongoing awareness of water and waterfront conditions to identify the presence of any significant amounts of floating debris, and to maintain effective procedures for prompt removal or marking of any obstructions or hazards to navigation that may be identified.

h) Abandoned or Derelict Vessels and Structures

If problems regarding abandoned or derelict vessels and structures in the NHMA arise, they must be quickly addressed because of the potential hazard or inconvenience to navigation and the public safety issues that would arise. Abandoned or derelict vessels or structures can also detract from the scenic quality of the NHMA and leak fuel and oil that will damage water quality. Coordination among its agencies and others will be needed to ensure effective removal of any abandoned or derelict vessels.

i) Public Safety and Homeland Security

The success of waterfront development initiatives depends on continued public confidence that waterfront areas are safe for recreational use and public enjoyment. Attention must be given to public safety concerns when considering future expansion of public waterfront areas and water access facilities.

River-related homeland security issues exist at Newburgh, in large part because of the nearby presence of the Newburgh Beacon Bridge carrying I-84 over the Hudson River.

j) Public Safety Laws and Regulations

As water and waterfront conditions change in the future, it may be appropriate to consider new or modified regulations to protect public safety. In this regard, the City may consider applying the authority

provided by the Section 46-a of the state Navigation Law to establish City regulations to control the operation of vessels within a distance of 1,500 feet from the City's shoreline, excluding vessels operating in the Hudson River federal navigation channel.

iii. Institutional Framework Issues

a) Harbor Management Funding

Many of the City's harbor management goals, objectives and policies can be implemented through the existing functions of the CAC, Planning Board and other City agencies in the course of the harbor management consistency review process, without significant added expense. Some initiatives, however, will require additional public and/or private expenditures. The HMP does not commit the City to future expenditures, but provides a basis for implementing specific projects, identified in the HMP, should funds become available. The HMP also provides a mechanism whereby fees collected by the City for use of public water and waterfront facilities can be expended specifically for waterfront improvement and harbor management-related purposes in the public interest.

b) Regulatory Complexities

Implementation of the HMP as an element of the LWRP should be pursued in a manner that does not significantly add to the existing regulatory complexities and that serves to expedite the regulatory process with respect to proposed projects found to be consistent with the HMP, including City projects described in the HMP.

c) Harbor Management Consistency Review

City, State, federal and private actions affecting the NHMA must be consistent with the HMP. This consistency requirement is a significant tool to ensure that State and federal decisions conform to the City's needs and goals. The CAC will be responsible for evaluating the consistency of all local projects within the LWRP area with the HMP and all other LWRP policies, and for providing recommendations to appropriate agencies. It will be necessary to conduct the consistency evaluation via a set procedure to ensure that the evaluation achieves

coordination among all agencies concerned with the NHMA, including the City's land-use agencies.

d) Changing Conditions and Circumstances

The HMP cannot anticipate every issue likely to affect the NHMA in the future. It is a working document that can be modified in response to changing conditions and needs. This will require ongoing examination of conditions affecting the NHMA and of the HMP's effectiveness, hearing public comments, amending the HMP and preparing any necessary City ordinances for implementation.

e) Coordination among City Agencies

There are a number of different City agencies with harbor management-related responsibilities, as well as different City plans, planning initiatives and regulations affecting the NHMA. All of the involved agencies will need to carry out their responsibilities in a coordinated and committed manner.

f) Coordination with the Sustainable Master Plan

There is a significant overlap of the City's harbor management and land-use authorities on the City's waterfront. While the HMP focuses on the water resources of the NHMA, upland conditions, including the type and extent of waterfront development and land use, will continue to influence the use and condition of the NHMA. Implementation of the HMP, the land-use provisions of the LWRP and the Master Plan will need to be coordinated, along with the actions of the WAC and the City's land-use boards.

g) Appointment of City Harbor Manager

There is currently no locally appointed official with specific responsibilities for the general care and supervision of the NHMA and waterfront. As new and expanded water access facilities may be established on the City's waterfront or the City assumes greater responsibility for regulating vessels and in-water structures, it may need to appoint such an official with specific responsibilities for managing the NHMA and otherwise implementing the HMP.

h) Coordination with State and Federal Authorities

Several State and federal agencies have significant authority affecting the NHMA, including the DEC, DOS DCR and USACE. Accomplishment of City goals for beneficial use of the NHMA and waterfront will require coordination between the City and these agencies and interests. State and federal decisions, including decisions on the issuance of permits for work in the NHMA, must be consistent with the City's harbor management goals, objectives and policies. The HMP provides the basis for a significant City role in the State and federal decisions that affect coastal resources and the boating and other activities that take place in the NHMA.

i) Coordination with other Municipalities

There is a need for ongoing coordination between the City and the municipalities with jurisdictions adjoining the NHMA, including the City of Beacon and the towns of Newburgh and New Windsor. Actions originating in or involving the adjoining municipalities can affect the NHMA just as actions originating from the City's jurisdiction can affect the other towns. A number of issues are also of common interest to Newburgh and the neighboring towns, including pollution, waterfront development, boating safety, emergency response, boating law enforcement, enhancement of tourism opportunities and waterborne transportation (ferry) service.

j) Coordination with Private Groups and Organizations

There are a number of private groups and nongovernmental organizations concerned with the NHMA and waterfront which, along with waterfront property owners, can have a significant role in the City's efforts to achieve its harbor management goals. It will be necessary to provide continuing opportunities for the expression of public comments concerning the NHMA.

iv. Water-Use and Navigation Issues

a) Maintaining the Hudson River Federal Navigation Channel

The Hudson River federal navigation channel supports waterborne commerce, other commercial navigation uses and recreational boating. Adequate channel dimensions must be maintained to ensure continuation of the economic advantages of waterborne transportation on the river and efficient delivery of fuel oil and other commodities. The New York District of the USACE is responsible for channel maintenance, including maintenance dredging as needed. The natural river depths are such that this dredging has not been necessary in the vicinity of the NHMA.

b) Non-Federal Dredging

Non-federal dredging along the shoreline of the NHMA may be necessary to maintain the continued viability of existing water-dependent facilities in the NHMA and provide opportunities for new or expanded facilities. Considerations affecting any such projects would concern the availability of suitable sites for dredged material disposal and the potential environmental impacts of those projects.

c) Aids to Navigation and Markers

Aids to navigation are generally defined as buoys, beacons or other fixed objects on land or in the water that are used to mark obstructions to navigation or to direct navigation through safe channels. Aids to navigation in and near the NHMA include the federal aids to navigation maintained by the Coast Guard to mark the federal navigation channel and “private” aids to navigation placed and maintained by all other government and private interests. The location and adequacy of aids to navigation in and near the NHMA will continue to be of interest to the City.

d) Navigation Fairways

Navigation fairways are generally defined as surface water areas to be kept free of any obstructions to facilitate ease and safety of navigation. Fairway designations may be applied to areas frequently used by recreational and commercial vessels traveling between waterfront facilities and navigation channels. As conditions change and additional water-dependent uses may be established on the City's waterfront, it

may be appropriate to consider designation of navigation fairways in the NHMA.

e) “Setback” Distances from Channels, Anchorages and Fairways

As conditions change and additional water-dependent uses may be established, it may be necessary to make decisions concerning how far floats, docks, piers and other in-water structures should be set back from the boundaries of navigation fairways and other surface water areas designated for specific uses in the NHMA. The closer these structures are located to such designated areas, the greater the potential that they will interfere with the use of the areas.

f) Icing Impacts

Ice conditions in the NHMA affect commercial vessel traffic in the winter, including waterborne commerce in the federal navigation channel and the operation of passenger ferry service. In addition, commercial vessels navigating the federal channel can cause breaking ice to be thrust toward the shoreline, potentially damaging marina facilities and other waterfront structures. Methods to avoid or reduce ice-caused damage to waterfront property will require continued attention.

g) Passenger Vessels

Passenger vessels, including excursion boats, passenger ferries and vessels used for research and educational purposes, are prominent in the NHMA. There is a need for continued attention to the variety of requirements for safe and efficient passenger boat operation, including navigation requirements, and necessary waterfront docking facilities and upland support facilities. In addition, continued attention must be given to the avoidance of conflicts between passenger vessels and other vessels in the NHMA.

h) Mooring and Anchoring Locations

Opportunities for mooring and anchoring in the NHMA are limited due to the deep water (generally greater than 30 feet at mean low water) near the shoreline and the proximity to the shoreline of the federal

navigation channel. Nevertheless, opportunities for providing designated mooring and anchoring locations in appropriate locations along the shoreline, particularly as part of waterfront redevelopment projects, should be considered.

i) Boating Safety and Education

Due to the extent of water activity in the NHMA, including recreational power boating activities mixed with rowing and other non-motorized uses, excursion vessels, ferries and other commercial vessels, all vessel operators must be aware of the laws and regulations for safe vessel operation and conduct their operations accordingly. This will require ongoing attention to initiatives to raise boaters' awareness and skills.

j) Unauthorized Encroachments into Navigable Water

Unauthorized encroachments into navigable water are defined as structures or other work placed or undertaken without necessary City, State or federal approvals. In the NHMA, there are two basic types of encroachments of concern: any structures and other work that would interfere with the normally used federal navigation channel, and any structure (e.g., dock, float, seawall) or other work (e.g., dredging or filling) waterward of the mean high water line that is placed or carried out without necessary permits or in a manner inconsistent with permit conditions. The City's authorities should be applied to the elimination or correction of any unauthorized encroachments that may be identified in the NHMA.

k) Educational and Scientific Uses

Educational and scientific uses of the NHMA will continue to require thoughtful planning and management to help ensure that they are conducted in a safe and enjoyable manner and in coordination with other beneficial recreational and commercial uses.

l) Public Rights in Navigable Waters

In accordance with the Public Trust Doctrine, the public has rights to use the waters of the NHMA for navigation, recreation and other purposes. The use of public waters for navigation is the central and essential

public right. In addition to the public's rights, decisions affecting the NHMA must also recognize the riparian rights of waterfront property owners for access to the NHMA. Conflicts may arise between riparian and public rights in the NHMA, including over the construction of docks and piers by waterfront property owners to reach navigable water, and it will be necessary to address those conflicts as they arise.

m) Water Access Structures

Proposals by water-dependent facility operators, individual land-owners and the City to construct or extend docks and piers to reach navigable water in the NHMA or increase docking capacity may raise issues regarding: 1) the potential environmental impacts of those structures; 2) the possible effect of those structures on small boat navigation and other public uses of the waters; 3) the appropriate size and length to which docks and piers should be constructed or extended; and 4) the extent to which the City should control or limit such structures. The City should address these concerns when reviewing proposals for the extension of docks and piers. The environmental impacts of individual structures may be relatively minor, but cumulative impacts may be more significant.

n) Energy Generation and Transmission Facilities

Any plans and proposals for energy generation and transmission facilities that might affect the NHMA will require careful review to identify and avoid any potential adverse impacts of the proposed facilities, including direct impacts on the NHMA and secondary impacts on upland areas.

o) Underwater Land Grants

The owners of underwater land grants in the NHMA have certain rights for use of the NHMA that are separate and distinct from the rights of other waterfront property owners and the general public. The private rights specified in the grants may affect future decisions by the City concerning waterfront use and development, and any questions concerning those rights may need to be addressed in the course of implementing the HMP.

v. Recreational Boating Issues

a) Boating Facilities and Services

Recreational boating activities require waterfront facilities and services, including facilities and services for boat berthing, launching, repair, maintenance and storage. The effect of waterfront development proposals and City land-use decisions on the operation and viability of existing boating facilities and services and on opportunities for development of new facilities is a major harbor management consideration.

b) Public Boating Facilities

Opportunities for enhancing the existing boating facilities owned and operated by the City for public use (including the Newburgh Landing dock, Newburgh boat launching ramp and Ward Brothers Memorial Rowing Park) include expanding the capacity of the Newburgh Landing dock to accommodate larger vessels and possibly relocating the rowing and boat launching facilities in conjunction with waterfront redevelopment.

c) Facilities for Visiting Boaters

Existing facilities in the NHMA for the use of visiting boaters are limited. There is no public docking facility specifically intended to accommodate visiting recreational boaters who are not patrons of the commercial marinas or waterfront restaurants.

d) Live-Aboard Vessels

The main issue raised by the use of vessels as living quarters is possible water pollution from uncontrolled waste discharges, including illegal discharges of marine sanitation devices. Also, houseboats not functioning as seaworthy vessels are not truly water-dependent uses and occupy berthing space that could be used by functional vessels.

e) Personal Watercraft Operation

A personal watercraft is a vessel propelled by machinery that satisfies one or both of the following criteria: a) has a width not greater than 24 inches; and b) is capable of carrying at least one individual who steers the vessel by shifting their body weight. Personal watercraft operation has the potential for conflicts with other water uses and to violate boating laws and public safety requirements. The operation of personal watercraft is subject to the same boating safety regulations that apply to the operation of all other vessels. Any issues concerning personal watercraft use in the NHMA would be most appropriately addressed with enforcement of existing regulations and education of watercraft operators.

f) Hand-Powered Boating Activities

Hand-powered navigation, including kayaking, canoeing and rowing, can be supported through City policies, plans and programs and through provision and enhancement of public facilities providing safe and enjoyable water access for such activities. Conflicts between these activities and other water uses that may arise from time to time will require the City's attention to maintain safe and beneficial use of the NHMA. In its review of future waterfront development proposals, the City can encourage the provision of public facilities for launching and landing of small, non-motorized vessels. Opportunities may also be pursued for enhancement of the existing Ward Brothers Memorial Rowing Park facilities, including potential relocation.

g) Vessel Waste Pump-Out Facilities

Vessel waste pump-out facilities pump sewage from a boat's holding tank and then contain the waste before properly disposing of it into a sewage disposal system. The potential for discharges of sewage from vessel holding tanks is a water quality concern in all State waterways. The provision of a vessel waste pump-out facility available for public use would serve to advance the City's goals for maintaining and enhancing water quality in the NHMA.

h) Dockominiums

A “dockominium” is a marina development and operation concept in which the user of a boat slip or berth purchases fee simple title to the use of that slip or berth. The conversion of existing boat slips to dockominiums or development of new boat slips as dockominiums raises several concerns. It has been argued that dockominiums reduce public access to the water and that the concept conflicts with the Public Trust Doctrine by which underwater lands (excluding lands previously granted for private use) are held in trust by the State for the use and benefit of the general public. In addition, dockominiums may provide space for primarily large boats and may contribute to the exclusion of smaller boats and moderate-income boaters. However, dockominiums can also provide a profitable waterfront use; without them, waterfront land may be converted to some other, non-water-dependent use.

vi. Public Access Issues

a) Public Access to the NHMA

Public access to the NHMA should be considered in terms of both physical and visual access, including access for boating, fishing and other in-water recreational activities, as well as use of appropriate areas of the shoreline for walking, enjoyment of water views, special events and educational purposes. In addition to City-owned properties providing public access to the NHMA, including the Newburgh Landing, Newburgh boat launching ramp, rowing park, riverfront walkway and street-end rights-of-way, opportunities for public access can also be provided in private waterfront development projects. In making decisions and recommendations for providing public access to the NHMA, the City should consider access for both the boating and non-boating public, and to avoid conflicts with other land uses, including commercial uses.

b) Public Access from City Properties

The public waterfront areas will require continued management attention and the allocation of sufficient City resources to ensure that they are effectively maintained for beneficial public use and enjoyment. Such attention and resources will also be necessary to achieve

opportunities for enhancement of existing water access facilities and opportunities for establishment of new facilities. In addition, continued attention will need to be given to balancing the needs of different interests for use of City-owned facilities, including those who desire access to the water for boating and other active recreation and those who wish to enjoy passive recreation pursuits.

c) Public Access through Waterfront Redevelopment

City and State coastal management policies favoring water-dependent use of coastal sites will affect the City's review of any future redevelopment proposals for privately owned properties along the waterfront. Through application of those policies, the City has the opportunity to obtain substantial public access provisions from private developers. A number of significant questions, however, must be addressed, including: How much access should be required? How to ensure that it is safe and well-designed? How to link and coordinate the amenities provided at different sites into a useful and meaningful waterfront experience?

In the absence of pre-established answers to these and other questions, the CAC and Planning Board responsible for reviewing waterfront development proposals for consistency with the LWRP and Master Plan will seek to answer the key questions on a case-by-case basis, in the course of its project review responsibilities.

d) Balancing Public and Private Rights

Public access to the NHMA from the water is not subject to all of the same constraints that affect public access from the land. Consistent with the Public Trust Doctrine, the open waters and submerged lands subject to the ebb and flood of the tide in the NHMA (excluding those submerged lands previously granted by the state to private owners) are held in trust by the State for the benefit of the general public. The right of free public navigation is subject to lawfully enacted restrictions (concerning operation of vessels in the interest of public safety, for example). Public rights waterward of the MHW line must be balanced with the riparian rights and other property rights of waterfront property owners.

e) Special Waterfront Events

Special waterfront events including boating-related events and exhibits, fireworks displays, and waterfront concerts require substantial planning, management attention and coordination among governmental agencies and volunteers to ensure continued safe and enjoyable public experiences and attendant benefits. Opportunities for additional special events to attract people to the waterfront and NHMA can be pursued.

f) Water-Based Tourism

Enhancement of opportunities for water-based tourism is an important element of the City's tourism strategy. Such opportunities may be achieved through public water-access facilities provided at City-owned waterfront properties, public amenities associated with waterfront redevelopment and publicly supported programs providing river excursions. Achievement of such opportunities will require substantial planning, commitment and investment.

vii. Waterfront Land-Use and Development Issues

a) Land-Use Authorities

Waterfront land-use and development have a significant influence on the NHMA, but can cause adverse impacts, including impacts on natural coastal resources, water quality and scenic views of the river and highlands. The City's land-use authorities can be applied to advance the goals of the HMP, and that implementation of City land-use provisions established in the LWRP and Master Plan should be coordinated with implementation of the HMP. Ongoing coordination among the CAC and the land-use boards is also needed to achieve effective implementation of the LWRP (and its HMP) and the Master Plan, as the two documents address overlapping issues along the waterfront.

b) Economic Impacts

Water-dependent uses on the City's shoreline supporting recreational boating and other water-dependent activities have significant economic benefits. In addition, visitors to Newburgh Landing; patrons of marinas,

waterfront restaurants and excursion vessels; and others who visit Newburgh for the beneficial use and enjoyment of the NHMA and waterfront also have a positive impact on the local economy.

The natural resources and environmental quality of the NHMA also have important economic values that are more difficult to quantify than specific economic impacts. Natural resources of the NHMA provide ecological functions that also have an economic value.

Significant environmental issues will need to be addressed as the City continues to pursue the water-related opportunities for economic development and Downtown and waterfront revitalization presented by the NHMA and waterfront. While the natural environment of the NHMA and waterfront provides vital ecological functions and the opportunity for water and waterfront uses with important economic and social benefits, the natural environment may be damaged by those same uses.

c) Water-Dependent Uses

The City and the State of New York have established policies that promote and protect water-dependent uses on the Newburgh waterfront. These state policies are reflected and supported in the LWRP. When considering issues of water-dependency, economic and regulatory conditions may limit possibilities for development of water-dependent uses as the principal uses of waterfront sites. As a result, waterfront redevelopment projects involving residential and non-water-dependent commercial development as well as water-enhanced development may be anticipated. To be consistent with the City and State policies favoring water-dependent uses, those projects should include facilities and amenities for public access to and along the NHMA.

Two significant issues of concern to City agencies considering the water-dependency of future waterfront development projects affecting the NHMA are: 1) how to retain and encourage truly water-dependent uses such as the recreational boating and marine-commercial uses that require direct access to the water; and 2) how to ensure that well-designed and meaningful provisions for public access are incorporated into development that is otherwise not water-dependent.

d) Waterfront Zoning

Future redevelopment proposals affecting existing water-dependent uses will be reviewed for consistency with the applicable zoning districts. When reviewing future proposals for redevelopment or zoning changes, the City should consider their effect on existing water-dependent uses and on opportunities for future water-dependent development activities. In the course of the LWRP consistency review process, the CAC will review and comment on future redevelopment proposals affecting property adjoining the NHMA, and proposals for waterfront zoning amendments.

e) Waterfront Commercial/Industrial Facilities

Commercial and industrial water-dependent uses, including ship-building and the water-borne shipment of materials to and from City port facilities, have been largely replaced by recreational water-dependent uses, but opportunities remain for marine-commercial uses adjoining the NHMA. Such uses should be sited in appropriate locations and in balance with other water-dependent and water-enhanced uses.

f) Passenger Boat Terminals

Operation, maintenance and establishment of passenger vessel operations in the NHMA, including Hudson River excursion vessel operations and ferry service connecting Newburgh with Beacon and other Hudson River locations, have significant land-use implications. In addition to the navigation requirements and water-use issues that must be addressed to provide safe and beneficial passenger vessel operations, attention must be given to the upland facilities needed to support these operations and to the related infrastructure requirements. Passenger vessels provide opportunities for transportation benefits and public waterfront access, but boat terminals also have the potential for negative impacts.

g) Maintenance of Waterfront Areas and Facilities

There is a need for ongoing, effective maintenance of public waterfront areas, including Newburgh Landing, Newburgh boat launching ramp, rowing park and riverfront walkway, to continue to provide a clean,

attractive waterfront and enjoyable public spaces. Maintenance of privately owned waterfront areas is also important for ensuring environmental quality of the NHMA, including scenic quality.

h) Shoreline Stabilization

Much of the City's Hudson River shoreline is stabilized with structural shore protection/stabilization measures such as bulkheads, seawalls and riprap revetments. These measures are needed to protect existing development along the shoreline, but can also have some adverse impacts; their replacement, as may be needed, requires careful design and planning. Structures such as seawalls and bulkheads require regular maintenance, or their deterioration may harm environmental quality and navigation in the NHMA; regular maintenance of riprap revetment structures is also needed to remove floating debris that may accumulate.

i) Riparian Rights

Waterfront property owners have riparian rights for access to the NHMA and Hudson River, inherent in the ownership of lands bordering tidal and navigable waters. While the property owner has the riparian right of access to navigable water, commonly exercised by “wharfing out,” that right must be balanced against the public's rights and interests in the NHMA. A conflict between riparian and public rights in navigable water often arises over property owners' construction of docks and piers that can interfere with navigation and other public interests. Also of potential concern are possible conflicts between adjacent landowners over the lateral limits of their riparian rights. A shorefront owner has the right of access to navigable water, for example, but the extension of any dock or pier cannot infringe on the adjacent owner's riparian area.

j) Filling of Submerged Land

Filling of submerged land in the NHMA to support waterfront development and shore protection measures raises the possibility of adverse environmental impacts, including impacts on fisheries habitat and water quality. When viewed individually, small filling operations may appear inconsequential; their cumulative impacts over time,

however, may be significant. As a result, any proposals for the filling of submerged land in the NHMA, including those affecting privately owned underwater lands, will be subject to careful review to assess potential environmental impacts.

SECTION III

LOCAL WATERFRONT REVITALIZATION PROGRAM POLICIES

SECTION III LWRP POLICIES

A. LWRP Local Policies and Applicable State Policies

This section includes a listing of each State Coastal Policy and an indication of its applicability to the Local Waterfront Revitalization Program (LWRP) in the City of Newburgh. Also included are additional local policies and an explanation of how both state and local policies relate to Newburgh's LWRP area.

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 UNDER-UTILIZED AND/OR VACANT INDUSTRIAL AND HEAVY COMMERCIAL PROPERTIES LOCATED NORTH OF THE QUASSAICK CREEK (AREA A – SOUTHERN/QUASSAICK CREEK AREA).

POLICY 1B REDEVELOP AND REVITALIZE THE LAND AREA WEST OF REV. DR. MARTIN LUTHER KING JR. BOULEVARD (AREA B – UPLAND AREA) FOR COMMERCIAL, CULTURAL, INSTITUTIONAL, RESIDENTIAL, AND RECREATIONAL USES, WITH EMPHASIS ON INTEGRATING USES WHICH ARE WATER-ENHANCED SUCH AS PUBLIC PARKS WITH VIEWS TO THE RIVER.

POLICY 1C REDEVELOP AND REVITALIZE THE LAND AREA BETWEEN REV. DR. MARTIN LUTHER KING JR. BOULEVARD AND THE HUDSON RIVER (AREA C – WATERFRONT AREA) TO INCLUDE WATER-DEPENDENT AND WATER-ENHANCED MIXED-USE RESIDENTIAL, RECREATIONAL, COMMERCIAL, AND OPEN SPACE USES WHICH INCORPORATE PUBLIC ACCESS TO THE HUDSON RIVER.

POLICY 1D CREATE A PEDESTRIAN LINK TO THE USES ALONG THE WATERFRONT AND LINK THE WESTERN PORTION OF THE LWRP AREA ALONG THE QUASSAICK CREEK WITH THE WATERFRONT, ESPECIALLY ALONG THE BROADWAY CORRIDOR AND FROM WASHINGTON'S HEADQUARTERS AND THE MONTGOMERY-GRAND-LIBERTY STREETS HISTORIC DISTRICT NEIGHBORHOODS.

Explanation of Policy

All government agencies must ensure that their actions further the revitalization of waterfront areas in the City of Newburgh. The sale, lease, conveyance of waivers or permits or purchase of property; the

construction of a new road or park; provision of pedestrian access; enhancement of streetscapes; upgrading of public utilities; the provision of tax incentives for businesses; and establishment of enterprise zones are all examples of government means for spurring waterfront revitalization. When such actions are proposed, they must be analyzed to determine if the action would contribute to or adversely affect the City's waterfront revitalization efforts.

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

Among the vacant and underutilized land within the LWRP area is former industrial land located at the base of the "Heights" area adjoining Quassaick Creek (including the former Provan Ford site), as well as a number of vacant storefronts within the Lake Street Plaza shopping center just east of Muchattoes Lake. In addition, there are a number of vacant and underutilized parcels in the southern portion of the inland LWRP area, beginning at Overlook Place, as well as abandoned, deteriorating and underutilized residential and industrial buildings. Although these structures are in deteriorating condition, there is the potential for restoration and adaptive reuse, particularly given the area's proximity to the historic Washington's Headquarters. Vacant City-owned land exists along Colden Street and Rev. Dr. Martin Luther King Jr. Boulevard between Washington Street, Broadway and Second Street, as well as along Rev. Dr. Martin Luther King Jr. Boulevard between South Street and Nicoll Street. Throughout the inland LWRP area, there are a number of isolated vacant parcels that would be suitable for infill development in conjunction with the existing commercial and neighborhood redevelopment and revitalization activities. Any redevelopment in this inland area will be compatible with the historic character of the East End Historic District, within which it is located. Such compatibility will be accomplished through the applicable historic district guidelines. In addition, several parcels along the waterfront are vacant, underutilized, deteriorating or abandoned. Steel Style, the City Incinerator site, the Consolidated Iron site (a remediated brownfield site) and the Regal Bag property all represent underutilized parcels of land in the area. All of these sites have the potential for more intensive water-enhanced and/or water-dependent uses.

The steep slopes rising up to the Heights neighborhood are also vacant. It is the City's intent for these slopes and the parcels along the Quassaick Creek 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 wildlife. Easements and rights-of-way are being pursued to create this trail, and to further ensure that these areas are retained for open space and habitat preservation, the City will consider rezoning the areas to open space. Fishing and wildlife viewing are water-dependent uses that

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.

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 District (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. The goal is to encourage a mix of new uses as well as enhance existing uses and activities along the waterfront and lower Broadway to facilitate this link. Physical improvements such as pedestrian walkways, public open space, and targeted landscape designs will help facilitate this goal. An important component of this goal is the public interest. Waterfront activities and uses which are in the public interest will be given priority during the City's review process.

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

Of particular importance in such waterfront redevelopment and revitalization activities is the need to establish equality between the use and development of private parcels and public elements within the waterfront and upland area. This will involve balancing the need for public access to the waterfront with private ownership of the land, and ensuring that the City has full access and control of its Riparian rights (i.e., the City-owned areas within the Hudson River at the ends of perpendicular streets), even if such publicly-owned areas abut private property.

When actions are proposed that will affect the revitalization, development or redevelopment of parcels in the LWRP area, they will be evaluated in terms of their value to the public good and compliance with the above policies. More specifically:

1. No actions that would cause aesthetic or environmental 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. Priority shall be given in the allocation of public monies and actions to aid development or redevelopment of parcels in the waterfront area to those projects which create employment opportunities and expand the tax base.
6. 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). For example, buildings which are currently deteriorated must be stabilized immediately by the current owner or as soon as the building is purchased by a new owner. It shall be the City's responsibility to enforce such measures through its existing local laws.
7. All actions must lead to development which is consistent or 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.
8. All actions must have the potential to increase the current tax and economic base of the community. This includes increased jobs for the City's residents, as well as means for generating revenue for the City.
9. All actions, where feasible and appropriate, must improve adjacent and upland views of the water. At a minimum, such actions must not affect the river views in an adverse manner.
10. All actions shall comply with applicable City, State and Federal regulations.

(See Policies 2, 5, 9A, 11, 11A, 19, 21, 23, 25)

POLICY 1E ENCOURAGE SUSTAINABLE BUILDING PRACTICES AND GREEN BUILDING DESIGN AS PART OF ALL REDEVELOPMENT ACTIVITIES THROUGHOUT THE ENTIRE LWRP AREA.

In an effort to improve energy efficiency and other environmental impacts throughout the LWRP area, the City will encourage sustainable building practices and “green” building design. Green or sustainable building is the practice of creating healthier and more resource-efficient models of construction, renovation, operation, maintenance and demolition. Research and experience increasingly demonstrate that when buildings are designed and operated with their lifecycle impacts in mind, they can provide significant environmental, economic and social benefits.

Elements of green building include:

- Energy efficiency and renewable energy
- Water stewardship and groundwater recharge
- Environmentally preferable building materials and specifications
- Waste reduction
- Toxics
- Indoor environment
- Smart Growth and sustainable development

The US Green Building Council has devised a Leadership in Energy and Environmental Design (LEED™) Green Building Rating System as a way to measure the energy and environmental performance of buildings. The LEED rating system allots points within seven specific categories for environmentally beneficial building materials and design, in categories such as site location, water efficiency, energy and the atmosphere, materials and resources and indoor environmental quality.

The City will make LEED accreditation a consideration of site plan approval for new construction within the LWRP area, and will consider updating its Code to encourage sustainable building practices through a combination of other regulations and incentives. Potential regulatory actions include passing EnergyStar legislation to require certain structures to comply with EnergyStar guidelines and adding pervious/permeable paving requirements to the Code. Potential incentives to be used include New York State’s Green Building Tax Credit (GBTC) program, an income tax credit for owners and tenants of buildings which meet energy, indoor air quality, materials, commissioning, water conservation, appliance, and size criteria. Also, the New York State Energy Research and Development Authority (NYSERDA) provides technical and financial assistance to those interested in building “green.”

In 2009, the US Green Building Council introduced a new program, the LEED for Neighborhood Development (ND) Rating System, to integrate the principles of smart growth, urbanism and green building into a national system for broader neighborhood design.

Newburgh has a number of areas within the LWRP area that could potentially be candidates for LEED-ND projects. This new certification will be considered for inclusion in the site plan and subdivision approval processes, and potentially added to the City's code.

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

Explanation of Policy

Newburgh's waterfront properties are a valuable resource. Historically, these properties were mainly developed with industrial water-dependent uses because of their riverfront location. Due to the globalization of industry, overall demand for such uses has declined, and many of Newburgh's former waterfront industrial sites are now vacant, deteriorated or underutilized (see Section II). However, demand for waterfront property is increasing throughout the State, and the only reasonable expectation is that long-term demand for waterfront space will intensify.

The following uses and facilities are considered water-dependent and can be classified as either industrial water-dependent or non-industrial water-dependent uses:

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 and stormwater management structures (for example: breakwaters, bulkheads), or municipal wastewater treatment facilities;
6. Facilities needed to store and service boats and ships (for example: marinas, boat repair, boat construction yards);
7. Uses requiring large quantities of water for processing and cooling purposes (e.g. hydroelectric power plants);

8. Uses that rely heavily on the waterborne transportation of raw materials or products which are difficult to transport on land, thereby making it critical that a site near to shipping facilities be obtained (e.g. coal export facilities, quarries);
9. Uses which operate under such severe time constraints that proximity to shipping facilities becomes critical (for example: firms processing perishable foods);
10. Scientific/educational/security activities which, by their nature, require access to coastal waters (for example: certain meteorological and oceanographic activities, Coast Guard/homeland security activities); and
11. 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 will, as much as possible, be sited inland from the dependent use, rather than on the shore.

Water-dependent uses within Newburgh's waterfront area include: the City's wastewater treatment plant, the Washington Street boat launch, the Newburgh-Beacon Ferry dock facilities, the Front Street Marina, Newburgh Landing dock and waterfront park, Gull Harbor Marina, First Street Fishing Pier, South Street Park and the Newburgh Yacht Club. In addition, boat slips are available and accessory to the Pier Loun residential development, and land was made available to the Newburgh Rowing Club for the construction of a boat house and launch site at Ward Brothers Memorial Park.

In addition to water-dependent uses, land development and activities that are enhanced by a waterfront location will be encouraged to locate along the river. However, such development must not be at the expense of viable existing and potential future water-dependent uses and must include provisions for public access. 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. Water-enhanced uses are primarily recreational, cultural or entertainment uses. A restaurant that uses good site design to take advantage of a waterfront view is an example of a water-enhanced use.

There are a number of water-enhanced uses, both within the waterfront area and within the LWRP area as a whole. Because of Newburgh's topography, many of the residences in the southernmost and northernmost portions of the LWRP area have excellent views of the Hudson River and surrounding Hudson Highlands. Land uses at the base of Broadway also have river views. The various waterfront restaurants and the waterfront parks are also enhanced by their waterfront location.

If there is no immediate demand for a water-dependent use in a given area but a future demand is reasonably foreseeable, temporary non-water-dependent uses would be considered preferable to a non-water-dependent use which involves irreversible, or nearly irreversible, commitment of land. Parking lots, passive recreational facilities, outdoor storage areas and non-permanent structures are uses of facilities which would likely be considered as “temporary” non-water-dependent uses.

It will be the City's priority, where practical, to expand existing and attract additional non-industrial water-dependent uses and activities on waterfront parcels, while recognizing the importance of maintaining existing industrial water-dependent uses in the waterfront area. The following actions will be taken to promote and facilitate water-dependent uses:

1. Non-industrial water-dependent uses will be favored when considering new developments.
2. City-owned property within the waterfront area, when available for re-use, will be considered for non-industrial water-dependent uses first. Water-enhanced uses will be given second priority along the waterfront.
3. Development incentives to promote water-dependent uses and water-enhanced uses with a public benefit component will be offered if possible. For example, tax abatements, loan guarantees and below-market interest rates will all be considered to foster such uses.
4. Uses which are water-enhanced will be encouraged within the LWRP area, but not at the expense of a non-industrial 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, time-limited permits, waivers, easements or leases for non-water-dependent/water enhanced uses will be considered.

Existing or future private water-dependent uses, in particular marinas, must share the waterfront with other equally desirable public water-dependent uses, such as fishing, recreational boating and viewing of scenic resources. These private water-dependent uses will be designed to minimize the impact on the access, use and enjoyment of the waterfront by the public, especially the riverfront walkway. Placing piers, slips or dockage adjacent to the bulkhead will be avoided, and maintenance of the maximum practicable amount of open water between the bulkhead and the first rank of piers will be the desired design. Gates for access and fencing for security purposes will be minimized, giving priority of purpose to the pedestrian and passive uses of the walkway and waterfront area.

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, will be considered 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 will be chosen as a water-dependent use area, and some types of water-dependent uses may be more appropriate in particular areas than others. The choice of a site must 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 LWRP area, near the City of Newburgh wastewater treatment plant, than in the northern portion near the Yacht Club.
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 will be given to such factors as the protection of nearby residential and/or recreational areas from odors, noise and traffic. Affirmative approaches will 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 toward 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 will 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. When areas suitable for non-industrial water-dependent uses are publicly owned, favored leasing arrangements will be given to non-industrial water-dependent uses.
2. Where possible and appropriate, consideration will be given to providing water-dependent uses with property tax abatements, loan guarantees or loans at below market rates.
3. Priority to non-industrial water-dependent uses and the assurance of adequate space for the development of such water-dependent uses shall be incorporated where consistent with LWRP planning objectives.

As part of the development of this LWRP, a Harbor Management Plan (HMP) was completed as a distinct and fully incorporated element of the LWRP. The HMP is based on a set of goals and objectives representing the City's long-range vision for the future use and conservation of the Newburgh Harbor Management Area (NHMA) on the Hudson River and Quassaick Creek. The harbor management policies address the harbor management issues identified in Section II of this LWRP and serve to advance the City's harbor management goals and objectives. The policies are established specifically to guide decisions and recommendations affecting the NHMA by City agencies.

The harbor management policies are grouped into eight categories concerning: 1) administration and coordination; 2) public health, safety and welfare; 3) navigation and water use; 4) environmental quality; 5) recreational boating; 6) commercial and industrial facilities; 7) public access; and 8) waterfront land-use and development. The policies are not tied to specific locations in the NHMA but are intended to apply in general throughout the NHMA. Site-specific recommendations are included in Section IV.

1. Administration and Coordination Policies

a. Harbor Management:

- (1) The City of Newburgh's harbor management policies will be considered as a special group of policies of the LWRP with all of the legal weight and standing of all other policies of the LWRP.
- (2) All policies of the LWRP, including but not limited to the harbor management policies, may be applied to the review of any proposal affecting the NHMA.
- (3) It is recognized that the HMP is an element of the LWRP and consists of the harbor management goals, objectives and policies set forth in Section III of the LWRP and the opportunities and recommendations set forth in Section IV.

b. Newburgh Harbor Management Area:

- (1) The NHMA, as defined in Chapter 159 of the City of Newburgh Code of Ordinances (Code), will be considered as a sub-area of the Newburgh LWRP Area and will include all of the navigable waters, intertidal areas and underwater lands of the Hudson River and Quassaick Creek within the territorial limits of the city and waterward of the mean high water (MHW) line. The NHMA will be bounded by the boundary lines of the neighboring municipalities of the Town of Newburgh on the north and the Town of New Windsor on the south; by the centerline of the Hudson River which marks the boundary line of the City of Beacon on the east; and by the MHW line on the west.

c. Harbor Management Jurisdiction and Responsibilities of the Waterfront Advisory Committee:

- (1) The jurisdiction of the Conservation Advisory Council (formerly the Waterfront Advisory Committee) for the purpose of the HMP will be as established in Chapter 159 of the Code and will include all of the navigable waters, intertidal areas, and underwater lands of the NHMA. For the purpose of implementing the HMP, the CAC will exercise all of its powers and duties pertaining to implementation of the LWRP as set forth in the Code.

d. Enforcement of HMP Provisions:

- (1) Chapters 147, 159, 300 and other applicable sections of the Code will be reviewed and amended as necessary to help ensure continued boating and navigation safety in the NHMA and effective implementation and enforcement of the applicable provisions of the HMP.
- (2) Through implementation of the HMP, the City will maintain an active, ongoing and principal role in the management of activities affecting the NHMA in coordination with State and federal agencies, including the New York Department of State Division of Coastal Resources (DOS DCR), New York Department of Environmental Conservation (DEC) and the U.S. Army Corps of Engineers (USACE).
- (3) The Newburgh Police Department and other duly authorized law enforcement agencies will coordinate their actions and authorities to the extent practical and desirable to achieve effective enforcement of the public safety provisions established in the HMP, the Code, and in State laws, rules and regulations.
- (4) The City Building Inspector will exercise all of the powers and duties established in the Code and in state laws, rules and regulations, to achieve effective enforcement of applicable sections of the HMP.

e. Harbor Manager:

- (1) An employee of the City will be responsible for oversight of activities on, in and contiguous to the NHMA including scheduling for the use of City lands and facilities; assistance to the CAC and other agencies of the City as needed for implementing the HMP; and generally advancing the safe and efficient operation of the NHMA.

f. Harbor Management Consistency Review:

- (1) All proposed projects affecting the NHMA will be reviewed for consistency with the HMP and all other policies of the LWRP. This review will be known as the harbor management consistency review and will be conducted in accordance with the schedules and procedures established in Chapters 159 and 300 of the Code.
- (2) In accordance with Chapters 159 and 300 of the Code, the CAC may review, for consistency with the HMP, proposed projects affecting real property on, in or contiguous to the NHMA as submitted to, or proposed by other agencies of the City including the following agencies:
 - Planning Board
 - Zoning Board of Appeals
 - Board of Parks, Recreation and Conservation
 - Any other agency with land use authority
- (3) The CAC may review for consistency with the harbor management policies: 1) all development proposals subject to the City's waterfront consistency review process and located on parcels contiguous to or otherwise affecting the NHMA; 2) all proposed uses, work and activities occurring in the NHMA; and 3) all proposed revisions or amendments to city plans, regulations, or ordinances affecting real property on, in or contiguous to the NHMA.
- (4) The referring agencies including those listed above will notify the CAC of any proposals subject to the harbor management consistency review process in accordance with the schedules and procedures established in Chapters 159 and 300 of the Code.
- (5) In accordance with the schedules and procedures established in Chapters 159 and 300 of the Code, the CAC will determine the consistency of proposed projects with the harbor management policies, and make recommendations to the appropriate City agency. If no comment regarding the consistency of the proposed project is made by the CAC, it will be

assumed that the CAC has deemed the proposal consistent with the harbor management policies.

- (6) Proposals affecting the real property on, in or contiguous to the NHMA and requiring State and/or federal approvals will be reviewed for consistency with the harbor management policies including applications submitted to the DEC and/or USACE for authorizations to conduct work in navigable water. The CAC will review proposed projects for consistency with the HMP and transmit its findings and recommendations to the appropriate State and/or federal agency prior to any final decision by those agencies. Pursuant to Article 42 of the New York Executive Law, a determination of inconsistency with respect to a proposed project will be binding on any State or federal official when making regulatory decisions or undertaking or sponsoring development affecting the NHMA.
- (7) It will be the responsibility of project applicants to provide the information necessary for the CAC to adequately assess the potential impacts of proposed projects on the NHMA and the consistency of such proposals with the HMP. The information required shall be reasonable in scope and should be in balance with the size, scope, and potential positive and negative impacts of the proposal.
- (8) When reviewing a proposed project for consistency with the HMP, the CAC will consider if there is any enforcement action pending with City, State or federal agencies for violations of environmental or other laws at the site of the proposed work and/or associated with the work for which the authorization is being sought. The CAC may defer its review of a proposal or application involving a site associated with a pending enforcement action until such time as that action has been concluded. The CAC may provide recommendations to appropriate City, State or federal regulatory agencies concerning the elimination of any unauthorized encroachments in the NHMA.

g. Facilitating the Regulatory Process:

- (1) City, State and federal authorities will work cooperatively, to the extent feasible in accordance with applicable laws and regulations, to facilitate the existing regulatory processes concerning authorization of work in or affecting the NHMA. Such work will be considered to include the construction of in-water structures such as docks, floats, piers and bulkheads, and dredging of aquatic areas to support water-dependent uses.

h. Funding for Harbor Management and Improvements:

- (1) Adequate funds shall be obtained and allocated to properly manage and maintain the NHMA and public facilities on, in or contiguous to the NHMA in the public interest. The City will actively pursue available governmental and private grants and other appropriate sources of funds to help defray the costs of harbor management and improvement initiatives conducted in the public interest.
- (2) In accordance with Chapter 159 of the Code, the CAC may propose a fee schedule, for adoption by the City Council, for water-dependent activities within the scope of the HMP. Such fees will be commensurate with services provided by the City, and all fees collected will be used for the maintenance and improvement of the NHMA for the public and for expenses for materials, personnel and equipment directly related to the function of City agencies, including the CAC, with responsibilities for managing the use and conservation of the NHMA.
- (3) An annual operating budget for harbor management will be established by the city to provide funds for HMP implementation, including activities of the CAC.
- (4) Any fines for violations of City and State laws, regulations and ordinances concerning use of the NHMA, including any rules and regulations adopted by City agencies, will be dedicated, to the extent consistent with City and State laws, regulations, ordinances and policies, for the purpose of implementing beneficial projects for environmental enhancement and other improvements for the public in and adjoining the NHMA.

i. Developing and Maintaining Public Support and Awareness of HMP Provisions:

- (1) The presentation and discussion of all relevant public concerns regarding the NHMA and the HMP will be encouraged and considered by the CAC, including concerns expressed by City residents, waterfront property and business owners, public officials, boaters and other users of the NHMA, interested organizations and the general public.
- (2) Special programs and events to stimulate public interest and community involvement in matters pertaining to the NHMA and the HMP will be encouraged and supported.

j. Updating and Amending the HMP and Applicable Sections of the Code:

- (1) The HMP and applicable sections of the Code will be updated and amended as necessary to respond to changing circumstances and conditions affecting the use and conservation of the NHMA.

- (2) To assure continued adherence to the HMP as well as to identify needed amendments or clarifications, the CAC will conduct an annual review of the HMP and the status of HMP implementation.
- (3) Pursuant to Article 42 of the New York Executive Law and Chapter 159 of the Code, the same process required for State approval and City adoption of the HMP shall be required to amend the HMP.

k. Coordination among City Agencies:

- (1) All City agencies and officials with authorities and responsibilities affecting the NHMA, including the CAC; City Council; Planning Board; Zoning Board of Appeals; Department of Public Works; Board of Parks, Recreation, and Conservation; and Building Inspector will carry out their harbor management-related responsibilities in the most coordinated manner, consistent with the HMP.
- (2) Implementation of all City plans and programs affecting the NHMA, including the LWRP and Newburgh Sustainable Master Plan, will be carried out in the most coordinated manner possible, emphasizing consistent objectives related to future beneficial use of the NHMA and protection of environmental quality associated with the NHMA.

l. Coordination with State and Federal Authorities:

- (1) State and federal agencies with authorities and responsibilities affecting the NHMA, including the DOS DCR, DEC and USACE, will carry out their responsibilities affecting the NHMA in the most coordinated manner, consistent with the HMP.
- (2) State and federal governmental agencies with authorities and responsibilities affecting the NHMA will work cooperatively with the CAC and other agencies of the City with relevant authorities and responsibilities to ensure effective implementation of the HMP.
- (3) Actions by State and federal governmental agencies shall, to the extent possible in accordance with state and federal law, be consistent with the provisions of the HMP. Pursuant to Article 42 of the New York Executive Law, a recommendation of the city pursuant to the HMP with respect to a proposed project shall be binding on any State or federal official when making regulatory decisions or undertaking or sponsoring development affecting the NHMA.

m. Coordination with Other Municipalities:

- (1) To the extent necessary and practical to address issues of common interest, the City will coordinate harbor management initiatives with other municipalities with jurisdictions adjoining or otherwise affecting the NHMA, including the towns of Newburgh and New Windsor and City of Beacon.

n. Coordination with Regional and Nongovernmental Organizations:

- (1) To the extent necessary and practical, the City will coordinate harbor management initiatives with governmental agencies and nongovernmental organizations with regional authorities and responsibilities affecting the NHMA, including Orange County and agencies and organizations with regional planning authority and responsibilities.
- (2) Private groups and nongovernmental organizations with an interest in the NHMA including groups and organizations with an interest in the Hudson River, will be encouraged to contribute to achievement of the City's harbor management goals through volunteer assistance and other means.

o. Coordination for Special Events:

- (1) Special in-water and waterfront events that enhance the vitality of the NHMA and waterfront, attract visitors to the City, and provide significant social and economic benefits will be encouraged and supported.
- (2) In-water and waterfront events will be planned and managed through the coordinated efforts of governmental agencies and private organizations to ensure a safe and beneficial experience by participants and spectators.

p. Managing In-Water Structures:

- (1) The City reserves its right, pursuant to Article 42 of the Executive Law, to adopt, amend and enforce ordinances to regulate the construction, size and location of wharves, docks, moorings, piers, jetties, platforms, breakwaters or other structures, temporary or permanent, to a distance of 1,500 feet from the shore and to impose fees for reasonable expenses incurred by the City in carrying out this regulatory authority.

q. Vessel Regulation Zone:

- (1) The City reserves its right, pursuant to Section 46-a of the Navigation Law, to adopt, amend and enforce ordinances to regulate the speed and operation of vessels, including the mooring and anchoring of vessels, the use of vessels as sleeping quarters and the disposal of waste from vessels, to a distance of 1,500 feet from shore, provided that such ordinances may not affect the speed and operation of vessels operating in the Hudson River federal navigation project.

2. Public Health, Safety and Welfare Policies

a. Boating Laws and Public Safety Regulations:

- (1) All appropriate actions, including implementation and enforcement of applicable City, State and federal laws, regulations and ordinances, will be undertaken to maintain and improve public safety on, in or contiguous to the NHMA.
- (2) As authorized by the Municipal Home Rule Law and Section 46-a of the Navigation Law, City regulations regarding the operation of vessels in the NHMA may be adopted for inclusion in the Code as necessary to maintain and improve boating safety in the NHMA.
- (3) Capital and operating budget requirements for effective City enforcement of applicable laws and regulations by the Newburgh Police Department will be supported.
- (4) The Newburgh Police Department and other appropriate agencies will coordinate their actions and authorities to increase public awareness of City, state and federal laws, regulations and ordinances affecting use of the NHMA and achieve effective enforcement of those laws, regulations and ordinances.

b. Managing Vessel Speed and Wake:

- (1) The operation of all vessels in the NHMA shall be in accordance with all applicable City, State and federal boating laws, regulations and ordinances including Chapter 159 of the Code concerning reckless operation of a vessel and restricted speed zones. Effective enforcement of applicable laws, regulations and ordinances will be encouraged and supported, along with the imposition of appropriate penalties on violators.

- (2) Any person operating a vessel in the NHMA at such a speed as to cause a wake will be held responsible for any damage caused by that wake, in accordance with applicable sections of the State boating regulations.
- (3) Restricted speed zones within the NHMA may be established by City ordinance and upon recommendation by the Newburgh Police Department. For the purpose of protecting the safety of persons and property, no person will operate any power-propelled vessel in violation of the speed and wake requirements of any duly established restricted speed zone in the NHMA.
- (4) The WAC and Newburgh Police Department will coordinate their actions and authorities to increase public awareness of city and state vessel speed regulations in the NHMA.
- (5) All personal watercraft are subject to all applicable City, State, and federal boating laws, regulations and ordinances.

c. Emergency Planning and Response Capabilities:

- (1) Necessary capabilities and facilities for effective response to emergency situations on, in or contiguous to the NHMA by responsible City, State and federal authorities will be maintained and, to the extent feasible, enhanced.
- (2) Provision of a central waterfront facility to support effective management of the NHMA, including effective response to emergency situations on, in or contiguous to the NHMA, by all appropriate agencies will be encouraged and supported.
- (3) Emergency response activities will be coordinated to the maximum extent feasible with neighboring municipalities and among appropriate City, State and federal agencies.
- (4) Capital and operating budget requirements for necessary provision of emergency services and other assistance to boaters and other users of the NHMA and waterfront by the Newburgh Police Department and Newburgh Fire Department will be supported.
- (5) The City's emergency operations plan will address the broad range of emergency situations and responses possible in the NHMA. Effective implementation of the emergency operations plan will be encouraged and supported.

- (6) All boating clubs and public and private marina facilities will develop and maintain emergency procedures for securing and protecting vessels and other property from the impacts of storms, flooding and erosion.
- (7) All appropriate measures to effectively avoid, prepare for and respond to emergencies involving the spillage of fuel or other materials in the NHMA will be encouraged and supported.
- (8) Any boating facility dispensing fuel in the NHMA will develop and maintain appropriate fuel spill contingency plans and, to the extent feasible, provide for coordinated response actions and the use of available fuel spill containment equipment.
- (9) Fuel and material spill preparedness and response activities in the NHMA will be coordinated to the maximum extent possible among responsible City, State and federal authorities and the operators of private facilities dispensing or otherwise handling fuel and materials.
- (10) Equipment necessary for the control of fuel and material spill emergencies will be properly maintained and periodically inspected to ensure continued readiness for responding to such emergencies in the NHMA.
- (11) All fueling of vessels berthed or stored on, in or contiguous to the NHMA will take place in accordance with all applicable laws, regulations and ordinances to maintain public health, safety and welfare and to avoid adverse impacts on environmental quality.
- (12) All waterfront facilities will include appropriate provisions for fire prevention and preparedness as required by the Fire Marshall, including adequate access for emergency vehicles and adequate on-site water supply for fire-fighting purposes.

d. Recognizing the Carrying Capacity of the NHMA for Safe Boating and Other Water Uses:

- (1) The carrying capacity of the navigable waters of the NHMA to accommodate safe boating and other water uses is not unlimited, and such capacity is subject to change over time. The design and review of development proposals affecting the NHMA, including proposals with water access facilities, will take into consideration the capacity of the navigable waters of the NHMA to accommodate increased water use while maintaining ease and safety of navigation, avoiding vessel congestion and supporting existing beneficial recreational, commercial and other uses of the NHMA.

- (2) New or expanded uses and facilities determined to exceed the capacity of the NHMA to support such uses and facilities in a safe and environmentally sound manner will be avoided.
- (3) It will be the responsibility of project applicants to provide the information necessary for the CAC and other appropriate agencies of the City to assess the capability of the NHMA to accommodate new and expanded uses and facilities in a safe and environmentally sound manner. The information required will be reasonable in scope and will be in balance with the size, scope and potential positive and negative impacts of the proposed project.

e. Avoiding Water Use Conflicts and Congestion:

- (1) Recreational, commercial, and other beneficial uses of the NHMA will be effectively planned, managed and regulated as necessary to avoid vessel congestion in the NHMA and conflicts among vessels operating in the NHMA, including any conflicts between recreational and commercial vessels and between motorized and non-motorized vessels.
- (2) The potential effects of waterfront development proposals on future water uses, activities and vessel congestion in the NHMA will be an important consideration in the design of waterfront development proposals and in the review of those proposals by the CAC, the planning and zoning boards and other City agencies.
- (3) Water and waterfront events affecting the NHMA will be scheduled and coordinated in a manner to avoid or minimize vessel congestion and potential conflicts among events and participants. The CAC and other appropriate agencies of the City will be notified of all proposals for significant in-water events such as boat shows, regattas and races involving at least 25 vessels and/or participants and occurring in or otherwise utilizing the NHMA. In order to maintain a master schedule of activities affecting the NHMA, the City will receive notice of the planned event from the event's sponsor at least 90 days prior to the event.
- (4) All activities and events involving special purpose craft such as rowing shells, kayaks and other vessels will be planned and undertaken in a manner to reduce or avoid potential conflicts and negative impacts affecting general navigation and other activities in the NHMA.

f. Mitigating Flood and Erosion Hazards:

- (1) All construction in designated flood zones contiguous to the NHMA will conform to City floodplain regulations and construction standards.
- (2) Proposals for structural measures to protect existing development from flooding and erosion will demonstrate that those measures will not result in significant adverse impacts on coastal resources and/or properties adjacent to the site of the proposed work.
- (3) Timely repair and maintenance of bulkheads and other shore protection structures as needed to protect existing development from flooding and erosion will be encouraged and supported.
- (4) The application of effective and appropriate measures to reduce the risks to life and property associated with coastal flooding will be encouraged and supported.

g. Removal of Abandoned and Derelict Vessels and Structures:

- (1) No building, structure, or floating facility on, in or contiguous to the NHMA, including any bulkhead, seawall or marine facility, will be allowed to deteriorate to the point that a hazard or obstruction to navigation or condition adversely affecting public safety may result. All in-water structures authorized by state and/or federal permits in the NHMA will be maintained in accordance with the maintenance conditions specified in those authorizations. Any observed deterioration of a state or federally authorized in-water structure affecting or potentially affecting navigation safety and/or environmental quality in the NHMA will be brought to the attention of the appropriate City, State and/or federal agency for appropriate remedial action.
- (2) All derelict, abandoned or deteriorated vessels and structures presenting a hazard or obstruction to persons, property, coastal resources, environmental quality or navigation will be marked, as necessary, and removed from the NHMA in the timeliest manner in accordance with applicable City, State and federal laws, regulations and ordinances.
- (3) City, State and federal agencies and officials, including the Newburgh police and fire departments, USACE and U.S. Coast Guard, will coordinate their efforts and resources and work cooperatively to: a) mark, as necessary, any hazard or obstruction to navigation for the benefit of navigators; b) minimize the risk to environmental quality caused by any derelict, abandoned, or deteriorated vessel or structure; and c) achieve repair or removal

of any derelict, abandoned or deteriorated vessel or structure from the NHMA in the most timely manner.

h. Avoidance and Removal of Floating Debris:

- (1) The implementation of all feasible measures to avoid and remove floating debris that may cause a hazard or obstruction to navigation or otherwise adversely affect public safety in the NHMA will be encouraged and supported.

3. Navigation and Water-Use Policies

a. Maintaining the Hudson River Federal Navigation Project:

- (1) A federal navigation project in the Hudson River consisting of the congressionally authorized federal channel will be maintained to serve recreational and commercial vessels, provide safe navigation and ensure the continued viability of water-dependent facilities and the economic advantages of waterborne transportation. The federal channel will be maintained by the USACE as needed to provide the navigable depths and dimensions required to maintain navigation safety and the viability of water-dependent facilities.
- (2) To the extent feasible, any maintenance dredging of the federal channel that may be required will be coordinated with any necessary nonfederal maintenance dredging in the NHMA to reduce the economic costs and potential adverse environmental impacts of such non-federal dredging.

b. Non-federal Dredging and Dredged Material Disposal:

- (1) Any nonfederal dredging that may be required in the NHMA will be carefully planned and conducted in a timely manner that provides for the continued viability of water-dependent facilities, safe and efficient navigation and avoidance of any significant, long-term adverse impacts on coastal resources and environmental quality.
- (2) Non-federal maintenance dredging will be undertaken in compliance with all applicable state and federal regulations and in a manner that will avoid or minimize any significant, long-term adverse impacts on coastal resources.
- (3) Dredging for new and expanded water-dependent uses and facilities will not result in significant adverse impacts on coastal resources and environmental quality.

- (4) Disposal of dredged material from the NHMA, including any necessary de-watering of dredged material, will take place in a manner to avoid or minimize any potential adverse impacts on coastal resources and environmental quality.

c. Reduction of Siltation:

- (1) All appropriate efforts to avoid or reduce siltation and the resulting need for dredging in the NHMA will be encouraged and supported. Those efforts shall include regular maintenance of storm drainage catch basins; construction of additional catch basins as necessary; effective street cleaning; control of runoff from construction sites; avoidance of the disposal of leaves, branches and other debris in the NHMA; and reduction or elimination of all other human activities that introduce sediment into the NHMA. Efforts to avoid or reduce runoff of sand and other materials into the NHMA from roads and other surfaces draining to the NHMA will be encouraged and supported.

d. Placement and Maintenance of Aids to Navigation:

- (1) Aids to navigation in and near the NHMA, including principally federal aids maintained by the U.S. Coast Guard as well as private (non-federal) aids, and including buoys, beacons and signs, will be adequate for marking areas and conditions affecting navigation safety.
- (2) Private aids to navigation may be placed in the NHMA as needed with approval from the appropriate agency of the City and appropriate permits from State and federal agencies.
- (3) The city, acting through the Newburgh Police Department or other appropriate agency, will conduct a periodic review of the number, type, location, condition and adequacy of any aids to navigation in and near the NHMA, and transmit the results of this review to the U.S. Coast Guard as necessary.

e. Designation of Navigation Fairways:

- (1) Specific water areas to be kept free of obstructions may be designated as navigation fairways by the city where necessary to ensure safe passage of recreational and commercial vessels to, from and through areas of vessel traffic in the NHMA and to delineate the extension of City-owned rights-of-way into the NHMA.
- (2) Regulatory buoys may be placed at the direction of the appropriate agency of the City as necessary to mark the boundaries of designated navigation fairways.

- (3) Designated navigation fairways will be of an appropriate width to ensure ease and safety of navigation. When determining the appropriate width of any navigation fairway to be designated in the NHMA, consideration will be given to existing NHMA conditions including: type of vessel use and amount of vessel traffic anticipated; traditional water uses; navigation rights and reasonable use expectations of the general public; normal wind, wave and current conditions; location and extent of existing in-water structures; the riparian rights of waterfront property owners; and the width of City-owned rights-of-way.

f. Designation of Setback Distances from Navigation Fairways:

- (1) All piers, docks, bulkheads, pilings and other structures in the NHMA will be set back from the boundaries of designated navigation fairways a safe and sufficient distance to ensure that these structures, and any vessels docked or anchored at these structures, do not interfere with the safe and free passage of any vessel using the fairways and with appropriate and beneficial use of City-owned rights-of-way.
- (2) Setback distances will be measured from the nearest boundary line of the nearest fairway to the nearest point of the particular structure or any vessel typically docked or anchored at that structure.
- (3) Appropriate setback distances for proposed structures and work in the NHMA will be determined on a case-by-case basis by the CAC based on a review of existing NHMA conditions including: type of vessel use and amount of vessel traffic anticipated; traditional water uses; navigation rights and reasonable use expectations of the general public; normal wind, wave and current conditions; location and extent of existing in-water structures; the littoral rights of waterfront property owners; and the width of City-owned rights-of-way.

g. Coordination to Address Harbor Icing Impacts:

- (1) City, State and federal agencies and officials, including the Newburgh police and fire departments and U.S. Coast Guard, will coordinate and apply available resources to address potentially dangerous and damaging conditions caused by ice conditions in the NHMA.
- (2) Ongoing communication will be encouraged and supported among City, State and federal agencies and officials, water-dependent facility operators, affected waterfront property

owners and other concerned parties for the purpose of increasing awareness of ice conditions in the NHMA as well as opportunities for avoiding or reducing potential ice-induced damage to shoreline structures.

h. Avoiding and Eliminating Unauthorized Encroachments in the NHMA:

- (1) No structures or any other work (including docks, piers, floats, pilings, bulkheads and dredging or filling of aquatic areas) will be placed or take place in the NHMA without necessary City, State or federal authorization. Any unauthorized structures or other work in the NHMA will be considered unauthorized encroachments to be eliminated or otherwise corrected in accordance with City, State and federal laws, regulations and ordinances.
- (2) The CAC and other appropriate agencies of the City will encourage and support the identification and elimination of any existing or future unauthorized encroachments in the NHMA.
- (3) Any unauthorized encroachments as defined above and determined to have occurred after the effective date of the HMP will be removed or otherwise corrected by the offending party. City, State and federal regulatory agencies will not issue after-the-fact authorizations that would bring those violations into compliance, unless there are compelling, clearly demonstrated reasons to do so.
- (4) Any unauthorized encroachments as defined above and determined to pre-date the effective date of the HMP will be evaluated individually by the CAC and other appropriate agencies of the City and specific measures should be developed, in cooperation with State and federal authorities, to remove or otherwise correct these unauthorized encroachments.
- (5) Any civil penalties assessed by state agencies for unauthorized work in the NHMA subject to regulatory programs administered by those agencies will be used to fund beneficial projects for environmental enhancement and other improvements in the NHMA, to the maximum extent consistent with State laws and policies.

i. Boating Safety and Education:

- (1) Local training and educational programs to promote boating safety such as boating safety courses offered by the Coast Guard Auxiliary and other certified organizations will be encouraged and supported.

j. Energy Generation and Transmission Facilities:

- (1) Any proposals for energy generation and transmission that would affect the real property on, in or contiguous to the NHMA, including floating and submerged platforms, pipelines and other structures, will be carefully reviewed to identify any potential adverse impacts of such proposals on navigation, coastal resources, and other conditions in the NHMA. Any adverse impacts that may be identified will be avoided or otherwise mitigated.

k. Underwater Lands:

- (1) All public and private actions in the NHMA will be consistent with the rights of those holding any underwater land grant, lease, or easement that may be affected and with any conditions or restrictions established in such grant, lease or easement.

l. Mooring and Anchoring:

- (1) The location and placement of all permanent moorings in the NHMA will be carefully managed by the City, acting as necessary through its designated agent or agency, in a manner that provides for safe and equitable use of available mooring locations.
- (2) Standardized procedures will be established by the City, as necessary, to guide the placement and maintenance of all permanent moorings.
- (3) Determination of the number and location of permanent moorings in the NHMA will be based on consideration of:
 - water depths and bottom conditions;
 - the availability of suitable on-land access areas to serve the moorings;
 - the need to avoid conflicts with traditional water uses and navigation patterns; and
 - the need to achieve the most efficient use of available mooring locations without adversely affecting navigation safety.
- (4) All mooring tackle used in the NHMA will meet minimum standards established by the City, and may be subject to periodic inspection, as necessary, to ensure that it is maintained in a safe condition.
- (5) Anchoring of vessels in the NHMA will not cause an obstruction or hazard to navigation nor any significant adverse impacts on environmental quality or other public uses or

purposes of the NHMA. The anchoring of all vessels will be subject to any order of a duly authorized agent of the City needed to maintain the safe and efficient operation of the NHMA.

- (6) The use of anchored and/or moored vessels and other floating structures for non-water-dependent purposes on publicly owned underwater lands of the State of New York will be prohibited in the NHMA unless such use predates the effective date of the Plan and is shown to be consistent with all applicable city, state, and federal laws, regulations, and ordinances.

4. Environmental Quality Policies

a. Balancing Environmental Conservation Goals with Goals for Water and Waterfront Use and Development:

- (1) Efforts to stimulate economic growth and development enhanced by the NHMA and waterfront will be carried out in coordination with efforts to protect and enhance the environmental quality, natural resources and ecological functions associated with the NHMA.

b. Recognizing the Carrying Capacity of Coastal Resources to Accommodate New Development and Other Activities:

- (1) Development affecting real property on, in or contiguous to the NHMA and other uses of the NHMA will be balanced with the need to protect natural coastal resources and the ecological functions associated with the NHMA and will not result in significant adverse impacts on environmental quality.
- (2) The design and review of proposals affecting real property on, in or contiguous to the NHMA will take into consideration cumulative impacts on the NHMA's aquatic resources and the capacity of those resources to support the proposed development or use without significant adverse impacts on environmental quality. The design and review of proposals affecting the NHMA will also be guided by recognition that there are limits to the amount of growth and development that the NHMA's natural environment can accommodate without important public values being lost as a result of environmental degradation. It will be recognized that cumulative impacts on environmental quality can result from individually minor but collectively significant actions taking place over a period of time.

- (3) New or expanded uses and facilities determined to exceed the capacity of the NHMA to support such uses and facilities in a safe and environmentally sound manner will be avoided.
- (4) Determinations of the capacity of the NHMA's natural environment for accommodating new use and development will be carried out through the case-by-case review of individual proposals by the CAC and other appropriate agencies of the City, acting in coordination with State and federal regulatory agencies. This review will address: 1) the capacity of coastal resources to support waterfront development and other uses of the NHMA; and 2) any potential public safety and navigation impacts associated with increased water use and activity that may be associated with the proposed development.
- (5) It will be the responsibility of project applicants to provide the information necessary for the WAC and other appropriate agencies of the City to adequately assess the potential impacts of proposed development projects on coastal resources. Any information required will be reasonable in scope and commensurate with the size, type or scale and potential positive and negative impacts of the proposal.

c. Maintaining and Improving Surface Water Quality:

- (1) The implementation of all feasible measures to maintain and improve surface water quality in the NHMA, including implementation and enforcement of applicable city, state, and federal laws, regulations and ordinances will be encouraged and supported.
- (2) Efforts to improve water quality in the NHMA through reduction or elimination of point and non-point sources of pollution (including stormwater runoff from roads, parking areas and other surfaces), will be encouraged and supported.
- (3) Efforts to improve water quality in the NHMA will include: maintenance, repair, and improvement of stormwater collection and treatment facilities as necessary in accordance with best available technology; reduction or elimination of any pollution caused by boating activities; reduction of the amount of sand, debris and other pollutants discharging into the NHMA from roads and waterfront properties; and reduction or elimination of all other human activities that unnecessarily introduce sediment, debris, or pollutants into the NHMA.
- (4) The use of suitable best management practices to manage, reduce where feasible, or otherwise control stormwater runoff into the NHMA will be encouraged and supported,

including establishment and maintenance of buffer zones of natural vegetation to filter polluted runoff draining into the NHMA.

- (5) All new development generating significant stormwater discharges directly or indirectly into the NHMA will be required to employ appropriate stormwater treatment systems and technology, including filters and swirl-type grit chambers where necessary, to reduce the potential for non-point source pollution to enter the NHMA. All such systems and technology will be properly maintained and operated in accordance with regularly scheduled maintenance procedures and all accumulated residue will be properly disposed of.
- (6) The City will continue to maintain and upgrade its wastewater collection and treatment facilities, as necessary, in accordance with best available technology. Capital budget requirements necessary for continued effective operation and maintenance of the City's wastewater treatment plant will be supported.
- (7) An effective, ongoing program of water quality monitoring in the NHMA by qualified governmental agencies and/or nongovernmental organizations will be encouraged and supported. That program will be conducted to identify existing and potential sources of pollution and to establish and maintain a database of information to support water quality improvement efforts by City agencies with water quality responsibilities and authorities.
- (8) Vessel holding tanks for sanitary waste will not be discharged into the NHMA. Existing State and federal regulations controlling the disposal of waste from vessels will be effectively enforced by the appropriate regulatory agencies.
- (9) Vessel waste pump-out facilities with adequate capacity to serve the needs of all boaters in the NHMA will be maintained in the NHMA. Any new or expanded marina facility providing additional boat slips will provide convenient on-site vessel waste pump-out facilities or demonstrate that they are readily available and accessible vessel waste pump-out capacity exists elsewhere in the NHMA to accommodate their needs.
- (10) In order to minimize use of vessel waste pump-out facilities in the NHMA, all new marina facilities will be required to provide restroom facilities for marina patrons, including visiting boaters.

- (11) Initiatives to improve water quality in the NHMA and Hudson River that are planned and implemented with consideration of watershed conditions and in coordination with other affected communities in the Hudson River watershed will be encouraged and supported.
- (12) Any use of waterfront and other LWRP-area properties for disposal/storage of snow removed from streets, parking lots and other areas will include appropriate measures including containment barriers and appropriate setbacks from the water's edge, to ensure that no significant pollution, including sedimentation, may enter the NHMA through runoff from melting snow.

d. Use and Protection of Fisheries Resources:

- (1) Opportunities for vessel- and shore-based recreational fishing in the NHMA will be maintained and, to the extent feasible, enhanced.
- (2) Recreational and commercial fishing activities will be encouraged and supported, in balance with other water-dependent recreational and commercial uses of the NHMA and with consideration of the sustainable capacity of fisheries resources in the Hudson River as determined by the appropriate resource management agencies of the State of New York.
- (3) Necessary actions to protect, maintain, and enhance fisheries habitat and resources in the NHMA for recreational and commercial use and public enjoyment, consistent with City, State and federal laws, regulations and ordinances will be encouraged and supported.

e. Protection of Waterfront Scenic Quality:

- (1) When considering matters related to the scenic quality associated with the NHMA and waterfront, including potential impacts on scenic quality, consideration will be given to public views of the NHMA, Hudson River and Hudson Highlands from upland locations in the City and to views of the NHMA and City from the river.
- (2) Design and review of development proposals on waterfront properties or otherwise affecting the NHMA will take into consideration cumulative impacts on scenic quality and the capacity of the natural and built environment to support the proposed development without the occurrence of significantly adverse impacts on scenic quality.

- (3) All appropriate laws, regulations and ordinances will be applied to discourage illegal dumping of trash and other debris in and near the NHMA. Violators will be vigorously pursued and prosecuted to the extent of the law.
- (4) To the extent feasible, commercial and industrial sites adjoining and nearby the NHMA will be maintained with suitable buffers to screen any site uses and facilities that may detract from waterfront scenic quality.
- (5) Proposals for development on and near the waterfront will be designed and reviewed to determine potential impacts on scenic quality. New or expanded uses and facilities that would significantly interfere with existing public views of the NHMA, Hudson River and Hudson Highlands or otherwise adversely affect scenic quality will be avoided.
- (6) City-owned waterfront properties will be maintained in the timeliest and effective manner needed to provide for continued public use and enjoyment of public spaces. Capital and operating budget allocations required for timely and effective maintenance of City-owned waterfront properties will be encouraged and supported.
- (7) No bulkhead or other shore protection structure on, in or contiguous to the NHMA will be allowed to deteriorate to the extent that it causes a significantly adverse impact on environmental quality. Any deteriorated bulkhead or other shore protection structure will be repaired or replaced where such deterioration is causing significantly adverse impacts on natural resources or ecological functions.

f. Preserving Cultural Resources and Maritime Heritage:

- (1) Important cultural resources in and near the NHMA, including buildings and sites of historic and/or archaeological significance, will be protected from any significant adverse impacts that may be caused by in-water or waterfront development.
- (2) Cultural resources in and near the NHMA will be maintained, where appropriate, for public use and enjoyment in coordination with redevelopment plans and proposals.
- (3) Beneficial projects and programs that serve to increase public awareness and appreciation of the city's cultural history and heritage tied to the Hudson River will be encouraged and supported.

5. Recreational Boating Policies

a. Provision of Boating Facilities:

- (1) The City will encourage the continued operation of private boating clubs and commercial marinas and boatyard facilities and the establishment of new and/or enhanced boating facilities, as needed, in appropriate locations. Any future development that may affect existing marina and/or boatyard facilities will not result in a significant reduction of currently available boat slips and boat service facilities.
- (2) The continued operation of water-dependent boat service facilities and the enhancement of those facilities in appropriate locations will be encouraged and supported.
- (3) City planning and zoning requirements will be applied as necessary to protect and promote water-dependent uses such as private boating clubs and commercial marina and boatyard facilities.
- (4) The provision of additional commercial and private boat slips to meet current and future demands for recreational boating facilities will be encouraged where the construction of such slips will be consistent with all other applicable provisions of the LWRP.
- (5) The design and review of future boating facility development proposals, including proposals to develop public and private boat slips, will take into consideration the potential cumulative impacts of this development on the coastal resources of the NHMA as well as the capacity of the NHMA to accommodate additional boating facilities without significant adverse impacts on navigation, public safety and environmental quality.

b. Provision of Public Boating Facilities:

- (1) Enhancement and expansion of existing public boating facilities and the establishment of new facilities will be encouraged to provide dock space, boat launching areas for trailered and hand-carried vessels, a public landing and other facilities as well as enhanced public access opportunities to the NHMA by resident, nonresident and transient boaters. Facilities provided will be consistent with demonstrated need and with the capacity of the NHMA and upland areas to accommodate those facilities.
- (2) The establishment and maintenance of small craft launching and landing areas available for public use at suitable waterfront locations will be encouraged and supported to serve small vessels such as kayaks and canoes that can be transported without trailers.

- (3) Capabilities needed to maintain city-owned boating facilities in a clean, attractive, safe, and enjoyable condition, including budget, staff and equipment capabilities, will be maintained and, to the extent feasible, enhanced.
- (4) When considering matters related to the provision of public boating facilities, consideration will be given to the needs of both City residents and visitors to the City.

c. Facilities for Visiting Boaters:

- (1) Consistent with other applicable provisions of the LWRP, public facilities including dock space, a public landing and facilities for public access will be established and maintained to serve visiting boaters.

d. Live-Aboard Vessels:

- (1) Any use of berthed vessels as short-term, seasonal, or permanent residences in the NHMA will be monitored and, where necessary, effectively regulated to maintain public health, safety and welfare.
- (2) The use of berthed vessels as permanent residences (as distinguished from short-term use of a vessel for sleeping as a secondary use to the vessel's primary commercial or recreational water-dependent use) in the NHMA will be consistent with all applicable City, State and federal laws, regulations and ordinances. Such use will be prohibited in those instances where necessary waterfront services, including services for sewage disposal, potable water and vehicle parking, are not available.
- (3) The use of any anchored vessels as short-term, seasonal, or permanent residences in the NHMA will be prohibited.

e. Personal Watercraft Use:

- (1) The operation of all personal watercraft in the NHMA shall be in accordance with all applicable boating laws, regulations and ordinances, including those concerning speed and noise levels.

f. Hand-Powered Boating Uses:

- (1) Hand-powered boating activities such as rowing, canoeing and kayaking are encouraged and supported in the NHMA, in balance with other recreational and commercial uses of the NHMA, and when conducted in a safe and environmentally sound manner.
- (2) Launching and landing areas to support access to the NHMA by small vessels such as canoes, kayaks and rowing sculls, including access by vessels that can be transported without trailers, will be established and maintained.
- (3) Organized events involving hand-powered vessels, planned and conducted in a manner that provides for the protection of public health, safety and welfare and that avoids or minimizes the risk of conflict with other vessels using the NHMA, will be encouraged and supported.

6. Commercial and Industrial Policies

a. Support for Water-Dependent Commercial and Industrial Activities:

- (1) Consistent with other applicable provisions of the LWRP, the continued and beneficial operation of water-dependent commercial and industrial facilities in the NHMA will be encouraged and supported in appropriate locations.

b. Avoiding Conflicts with Recreational Activities:

- (1) Water-dependent commercial and industrial operations in the NHMA will be effectively managed as necessary to avoid vessel congestion in the NHMA and any undue conflicts between commercial and recreational vessels.
- (2) Reducing or eliminating potential conflicts between recreational and commercial vessels and facilities will be a significant consideration in the design and review of future public and private waterfront development proposals.

c. Contingency Planning for Materials Spills:

- (1) In coordination with City, State and federal government agencies, appropriate spill contingency plans will be maintained and periodically updated by the facilities dispensing or receiving materials that could potentially spill into the NHMA.

- (2) Equipment necessary for the control of fuel and other spill emergencies will be properly maintained and periodically inspected to ensure continued readiness for responding to those emergencies.
- (3) The Newburgh Fire Department will be provided with the timeliest notification of any fuel and other materials spills affecting the NHMA. Complete and comprehensive records of all fuel and materials spills in the NHMA will be maintained in a suitable location in the city and be available for review by duly authorized agencies and officials for harbor management purposes.

d. Boat Terminals:

- (1) Establishment of boat terminals on, in or contiguous to the NHMA, including terminals for ferry boats and excursion boats, will be encouraged and supported where such terminals will: a) enhance the regional transportation infrastructure by providing efficient waterborne transportation of passengers to and from Newburgh; and/or b) provide beneficial opportunities for public access to the NHMA and Hudson River.
- (2) All proposals for new or expanded boat terminals on, in or contiguous to the NHMA will be carefully designed and reviewed to avoid or minimize any significant adverse impacts on navigation, coastal resources and upland areas near and adjoining the NHMA.

e. Floating Structures:

- (1) The use of anchored and/or moored vessels and other floating structures such as docks for non-water-dependent commercial or industrial purposes on publicly owned underwater lands of the State of New York will be prohibited in the NHMA unless such use predates the effective date of the Plan and is shown to be consistent with all applicable City, State and federal laws, regulations and ordinances.

7. Waterfront Land-Use and Development Policies

a. Planning and Review of Waterfront Development Proposals:

- (1) Waterfront use and development will be managed through the City's planning, zoning and other regulatory authorities giving first priority and preference to water-dependent uses and facilities and second priority and preference to water-enhanced uses and facilities.

- (2) All public and private waterfront development proposals affecting the NHMA will be carefully planned and reviewed for consistency with the LWRP and to mitigate any potentially significant adverse impacts on beneficial uses and conditions in the NHMA.
- (3) The potential impacts of waterfront development proposals on opportunities for future water-dependent uses and activities in the NHMA will be an important consideration in the design of waterfront development proposals and when reviewing those proposals for consistency with the LWRP.
- (4) Opportunities for stimulating economic growth through beneficial water-dependent and water-enhanced development on, in or contiguous to the NHMA will be encouraged and supported, where such development is consistent with all other applicable policies, plans and ordinances of the City.
- (5) The planning and implementation of all city-supported development initiatives affecting the NHMA waterfront will be undertaken in the most coordinated manner possible, emphasizing consistent project objectives related to future commercial, recreational and other beneficial uses of the NHMA.
- (6) The CAC will serve in an advisory capacity in the development of all City-supported development initiatives affecting the NHMA waterfront. Pursuant to Chapter 159 of the Code, all City-supported development initiatives affecting the waterfront will be reviewed by the CAC for consistency with the LWRP.
- (7) Redevelopment of any vacant or underutilized properties on or near the waterfront will be encouraged and supported where that development is consistent with applicable City, State and federal policies, plans and regulations, and where that redevelopment is expected to result in significant and long-term beneficial impacts on the future character of the NHMA and waterfront.
- (8) When reviewing proposals for waterfront development, the City will apply its planning, zoning and other regulatory authorities to encourage the provision of public amenities where feasible, including facilities for public access to the NHMA.

b. Protecting Water-Dependent Uses and Activities:

- (1) The City will implement (through its planning, zoning and other regulatory authorities) the policies of the LWRP to support and encourage the development and continued operation of water-dependent land uses on waterfront sites.

- (2) Public access to the NHMA will be promoted wherever feasible, but the City will ensure, through appropriate zoning and other land-use provisions, that existing water-dependent uses are not replaced by non-water-dependent uses providing only limited public access to the NHMA.
- (3) Pursuant to Chapter 159 of the Code, all proposals for development on waterfront properties or otherwise affecting the NHMA submitted to the City's planning and zoning boards and other city agencies will be reviewed by the CAC for consistency with the LWRP.

c. Construction and Maintenance of In-Water Structures:

- (1) All public and private floats, docks, piers and other in-water structures will be set back from the boundaries of designated navigation fairways a sufficient distance to ensure that those structures and any vessels docked at those structures do not interfere with safe and unobstructed navigation.
- (2) Construction of public and private floats, docks, piers and other in-water structures will not have a significant impact on natural resources, public access opportunities, visual quality and traditional water uses.
- (3) The appropriate extent to which public and private floats, docks, piers and other in-water structures extend waterward in order to reach navigable water will be evaluated by the CAC in the course of the Harbor Management Consistency Review, taking into consideration the riparian rights of waterfront property owners, existing conditions in the NHMA, public access requirements and other pertinent conditions.
- (4) To reduce potential adverse impacts on navigation resulting from the construction of new or extended in-water structures and to ensure compliance with any conditions included in the State and/or federal permits for those structures, the permittee will be required, as a permit condition, to provide an "as-built" survey or other documentation following completion of the permitted construction.
- (5) No public or private float, dock, pier or other in-water structure, will be allowed to deteriorate to the point that a hazard or inconvenience to navigation or a condition adversely affecting public safety and/or environmental quality may result. All in-water structures authorized by State and/or federal permits in the NHMA will be maintained in accordance with the maintenance conditions specified in those permits. Any observed deterioration of a State or federally authorized in-water structure affecting or potentially

affecting navigation and/or environmental quality in the NHMA, including any leakage of material into the NHMA from behind the structure, will be brought to the attention of the appropriate city, state, and/or federal agency for appropriate enforcement action.

- (6) Permits for the placement of permanent structures in the NHMA will be granted only to those who possess the riparian right to place such structures and will be consistent with the terms, rights and conditions of any underwater land grant, lease or easement that may be affected.

d. Filling and Stabilization of Waterfront Property:

- (1) Timely maintenance, repair, and replacement as necessary of existing bulkheads and other shore protection structures to support water-dependent uses and achieve other beneficial purposes will be encouraged and supported.
- (2) Repair of existing bulkheads and other shore protection structures on individual sites will be encouraged in coordination with waterfront redevelopment projects affecting those same sites.
- (3) Filling of viable and productive aquatic areas in the NHMA to create additional land area for development will be discouraged.

e. Protecting Neighborhood Character and Quality of Life:

- (1) Activities in the NHMA and use and development of the NHMA waterfront will be carefully managed to avoid adverse impacts on the quality of life in LWRP-area neighborhoods.
- (2) In-water and waterfront activities will not cause nuisance impacts that affect LWRP-area residential areas including noise, litter, unshielded light and other impacts.
- (3) The planning and review of development and other activities affecting the NHMA will take into consideration not only cumulative impacts on NHMA resources and the capacity of those resources to accommodate increased development but also potential impacts on the existing character and quality of life in LWRP-area residential neighborhoods. Potential adverse impacts will be minimized or eliminated.

f. Riparian Rights for Use of Navigable Water:

- (1) The riparian rights of the owners of land contiguous to the NHMA, including the right of access to navigable water and the right to other improvements and useful purposes, will be recognized and protected. Such rights will be exercised in a reasonable manner without substantial impairment of the public's rights and interests in the use and conservation of the Public Trust area.
- (2) The exercise of riparian rights will be consistent with the terms, rights and conditions of any underwater land grant, lease or easement that may be affected.
- (3) The City will not sell, lease, or otherwise convey any riparian right unless such conveyance is determined to be consistent with all applicable City, State and federal laws, regulations and ordinances.

8. Public Access Policies

a. Providing Public Access to the NHMA and Along the Shoreline:

- (1) The City will encourage and support the provision of facilities and opportunities for public access to the NHMA, consistent with the capacity of the NHMA and waterfront to accommodate those facilities and opportunities. Public access will be considered as physical and/or visual access to the NHMA that will be available to all members of the general public and not limited to any particular groups or individuals.
- (2) Facilities and areas for public access to the NHMA will be provided in coordination with implementation of the LWRP, Master Plan and the City's waterfront zoning regulations. The City will require the provision of well-designed, meaningful and coordinated public access to the water by all waterfront development subject to the City's waterfront and harbor management consistency review, except development for principal uses that are otherwise water-dependent as defined in the LWRP and Article 42 of the New York Executive Law.
- (3) The City will pursue the acquisition of waterfront land and easements (through purchase, donation, or other proper means) when such opportunity may arise and where such acquisition will provide opportunities for safe and enjoyable public access to the NHMA and enhance the overall beneficial value and usefulness of the city's system of public parks and open space.

- (4) The City will not sell, lease, or otherwise convey any waterfront property unless such conveyance is determined to be consistent with all applicable City, State and federal laws, regulations and ordinances.

b. Pedestrian Access between the Waterfront and Other Areas of the City:

- (1) Well-designed and beneficial facilities for pedestrian access will be provided to link public boating and other water access facilities with commercial and other areas of the City.

c. Access to the NHMA from City Parks and Rights-of-Way:

- (1) Opportunities for public access to the NHMA through the City park system will be fully utilized and, to the extent feasible, enhanced. The City will promote and encourage increased water-related use and activities at public parks including visual and physical access opportunities, public boat slips and launching facilities, public landings and other facilities for visiting recreational boaters, small boat storage and launching areas and fishing piers. These uses and activities will be consistent with all other applicable provisions of the LWRP and with the capacity of the City-owned properties to accommodate enhanced or expanded use in a safe and environmentally sound manner.
- (2) A fair and equitable schedule of fees for the use of public boating facilities will be maintained, consistent with facility costs and goals for encouraging use of the NHMA by resident, nonresident and visiting boaters.
- (3) Opportunities for improving physical and visual public access to the NHMA through city-owned street ends and other public rights-of-way will be encouraged and supported, consistent with all other Plan provisions. Where feasible, the City will improve street ends and other public rights-of-way for public use in the near term and in all cases ensure the retention of the water access opportunities provided by these street ends and rights-of-way for future public use and enhancement.
- (4) Any development or improvement of city-owned street ends and other public rights-of-way for purposes of public access to the NHMA will be consistent with traditional waterfront character and applicable land-use policies and zoning regulations of the city.

d. Balancing Public and Private Rights for Use of the NHMA:

- (1) Plans and proposals to improve existing public access facilities and to provide new public access opportunities will be consistent with the riparian rights of waterfront property

owners, including private owners and the city. Conversely, the exercise of riparian rights by waterfront owners will not have a significant adverse effect on coastal resources, public access opportunities, scenic quality, traditional water uses and other public values associated with the land and water resources in the NHMA.

e. Special In-Water and Waterfront Events and Activities:

- (1) Special in-water and waterfront events, festivals and other activities that attract City residents and visitors to the NHMA, provide opportunities for public enjoyment and stimulate public interest and community involvement in matters pertaining to the NHMA will be encouraged and supported.
- (2) A fair and equitable schedule of fees for the use of public waterfront areas for special events will be maintained, consistent with facility costs and goals for encouraging public use of the NHMA.

f. Encouragement of Water-Based Tourism:

- (1) Opportunities for expanding water-based tourism activities and the associated economic, cultural, recreational and other benefits of those activities to the City and Hudson Valley region will be encouraged and supported.

(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

This policy recognizes that the traditional activities occurring in and around numerous smaller harbors throughout the State’s coastal area contribute to the economic strength and attractiveness of these

Explanation of Policy

The above policy is intended to accomplish the following:

- Strengthen existing residential, industrial and commercial centers;
- Foster an orderly pattern of growth where outward expansion is occurring;
- Increase the productivity of existing public services and mitigate the need to provide new public services in outlying areas;
- Preserve open space in sufficient amounts and where desirable; and
- Foster energy conservation by encouraging proximity between home, work and leisure activities.

Intensive development (residential, commercial and industrial) will not be allowed in areas where water and sewer facilities are not adequate. Development, particularly large-scale development, within the LWRP area will be encouraged to locate within or in close proximity to areas where infrastructure and public services are adequate or can be expanded or upgraded. Water and sewer improvements will be made where necessary and where economically feasible to support new development. Facility expansions will be provided as necessary to support redevelopment and revitalization activities. Owners and lease holders bear the responsibility for waste management on their properties.

Existing water and sewer service facilities will be continuously monitored to ensure proper functioning. All system components will be maintained to avoid unnecessary environmental problems such as seepage, the discharge of untreated effluent, leakage and standing water. Likewise, providing sewer and water services to the City of Newburgh's residents, before other municipalities, will be the main goal.

The following points will be considered when assessing the adequacy of the area's infrastructure and public service for proposed developments:

1. The streets, highways, parking areas, and public transit stops serving the proposed site can safely accommodate the peak traffic generated by the proposed land development;
2. The development's water needs (consumptive and firefighting) can be met by the existing water supply system;

3. The existing sewage disposal system can accommodate the wastes generated by the development or includes adequate provisions for necessary upgrades;
4. The energy needs of the proposed land development can be accommodated by existing utility systems. Alternative energy and disposal systems will be investigated and evaluated;
5. All stormwater runoff from the proposed site can be accommodated by on-site and/or off-site facilities without negatively impacting other properties; and
6. All existing garbage and recycling services can accommodate the wastes generated by the development, or adequate provisions for upgrades (to be the responsibility of the property owner) are provided;
7. The existing schools, police and fire protection, and health and social service are adequate to meet the needs of the population expected to live, work, shop or conduct business in the area as a result of the development.

The allocation of funds for water and sewer improvements and other public services will give priority to activities and areas which promote waterfront revitalization in the LWRP area.

(See policies 11, 14, 18, 19A, 21, 30, 33)

POLICY 6 EXPEDITE PERMIT PROCEDURES IN ORDER TO FACILITATE THE SITING OF DEVELOPMENT ACTIVITIES AT SUITABLE LOCATIONS.

Explanation of Policy

For specific types of development activities and in areas suitable for such development, State agencies and local governments participating in the Waterfront Revitalization Program will make every effort to coordinate and synchronize existing permit procedures and regulatory programs. This will, however, not be at the expense of the integrity of a regulation's objectives. Permit procedures and regulatory programs will be coordinated within each agency and efforts will be made to ensure that each individual agency's procedures and programs are synchronized with other agencies' procedures at each level of government. Finally, regulatory programs and procedures will be coordinated and synchronized between levels and responsible entities of government.

FISH AND WILDLIFE POLICIES

POLICY 7 THE STATE COASTAL POLICY REGARDING SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS IS NOT APPLICABLE TO THE CITY OF NEWBURGH.

Explanation of Policy

No fish and wildlife habitats of significant Statewide importance have been identified in Newburgh.

However, a 2004 report on biodiversity and natural resources within the Quassaick Creek estuary identified a number of areas within the estuary as actual or potential reservoirs of biodiversity, or resources for resident or itinerant wildlife. Quassaick Creek below the first dam upstream provides breeding habitat for anadromous fishes, while the tidal mouth of the creek may be an important refuge for young fish of species inhabiting the Hudson River. Upland areas in the estuary provide potential breeding habitat for some amphibians, and habitat areas for amphibians, reptiles and canopy-breeding birds. The Quassaick Creek also provides potential habitat areas for several state-rare species: woodland agrimony, wood turtle and narrow-leaf sedge, and could also support regionally rare species such as breeding cerulean warbler and tulip tree silk moth.

Although the Quassaick Creek estuary is not recognized as a Significant Coastal Fish and Wildlife Habitat, this area will be protected, preserved and restored to the greatest extent possible to maintain its value as habitats for the species described above.

POLICY 7A ACTIVITIES THAT WOULD ADVERSELY AFFECT FISH RESIDENT IN OR MIGRATING THROUGH WATERS ADJACENT TO NEWBURGH WILL BE AVOIDED.

Explanation of Policy

Although fish and wildlife habitats of significant Statewide importance have not been identified in Newburgh, a variety of fish species which reside in or migrate through the Hudson River estuary at Newburgh shall be protected. If fish are not protected, recreational fishing will not be available to local residents, and the unique environment of the Hudson River and Newburgh Bay may be adversely affected.

Because residents of Newburgh fish from the water's edge, an attempt to preserve the existing fish and wildlife and encourage reproduction is important. The water quality levels in Newburgh shall be maintained and improved where possible. Dumping into the Hudson River will be prohibited. Adequate sewage and stormwater facilities will be maintained. Because the disposal of untreated waste into the Hudson River is prohibited, marinas, all land and water uses and watercraft must dispose of waste

properly. Adequate solid waste receptacles will be provided near Newburgh Landing and waterfront park, the Newburgh Yacht Club, Washington Street Boat Launch, Fishing Pier, South Street Park and any proposed new recreational developments. In addition, a pump-out station for small watercraft will be considered for each new marina or boat docking facility. The City will explore the feasibility of establishing a vessel waste pump-out station at the wastewater treatment plant site. (See Section IV, Proposed Land and Water Uses and Proposed Projects).

All new developments will be carefully monitored to assure the protection of fish and wildlife. Actions which destruct or significantly impair water quality or potential habitats will not be permitted. New development, especially in the waterfront area, along the Quassaick Creek corridor and in proximity to Muchattoes Lake, may not be undertaken if it could potentially destroy or significantly impair biological conditions unless such conditions are found to be harmless to fish and wildlife. An action will be considered to significantly impair a habitat or wildlife area if it will reduce a vital resource or change environmental conditions. Measures will be taken to mitigate negative conditions which could occur as a result of new development, revitalization activities or any other action.

Activities that are likely to affect fish and wildlife must be avoided wherever possible. Such activities would include but are not limited to the following:

1. Filling Shallow Areas of Streams and the Estuary: May change physical character of substrate (e.g., sandy to muddy, or smother vegetation, alter surface water hydrology).
2. Grading Land: Results in vegetation removal, increased surface runoff, or increased soil erosion and downstream sedimentation.
3. Clear Cutting: May cause loss of vegetative cover, increase fluctuations in amount of surface runoff, or increase streambed scouring, soil erosion, sediment deposition.
4. Dredging or Excavation: May cause change in substrate composition, possible release of contaminants otherwise stored in sediments, removal of aquatic vegetation, or change circulation patterns and sediment transport mechanisms.
5. Dredge spoil disposal: May induce shoaling of littoral areas, or change circulation patterns.
6. Introduction, storage or disposal of pollutants such as chemical, petrochemical, solid wastes, nuclear wastes, toxic material, pesticide, sewage effluent, urban runoff, leachate of hazardous and toxic substances stored in landfills: May cause increased mortality or

sublethal effects on organisms, alter their reproductive capabilities or reduce their value as food organisms.

7. Creating or maintaining man-made barriers to anadromous fish passage.

The above-mentioned activities in coastal areas are to be avoided if at all possible, because they may alter the necessary combination of elements or characteristics required by certain biological habitats for survival.

If a proposed action is likely to alter any biological, physical or chemical characteristics beyond a tolerance level acceptable to fish and wildlife, their viability will be significantly impaired or destroyed. Such an action would be inconsistent with State and local policies and would not be permitted.

(See Policies 2, 5, 8, 8A, 9, 12, 17, 19, 20, 25, 28, 30, 33, 34, 35, 36, 37, 39, 40, 44)

POLICY 8 PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH BIO-ACCUMULATE IN THE FOOD CHAIN OR WHICH CAUSE SIGNIFICANT SUBLETHAL OR LETHAL EFFECT ON THOSE RESOURCES.

Explanation of Policy

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law [S27-0901(3)] as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed." A list of hazardous wastes as defined by DEC can be found in 6 NYCRR Part 371.

The handling (storage, transport, treatment and disposal) of the materials included on this list is being strictly regulated in New York State to prevent their entry or introduction into the environment, particularly into the State's air, land and waters. Such controls shall effectively minimize possible contamination of and bioaccumulation in the State's coastal fish and wildlife resources at levels that cause mortality or create physiological and behavioral disorders.

Other pollutants are those conventional wastes, generated from point and non-point sources, and not identified as hazardous waste but controlled through other State laws.

The remediation of existing brownfield sites within the City of Newburgh will be encouraged and closely monitored by appropriate State and local agencies to ensure that these known contaminated sites do not yield adverse effects on fish and wildlife resources until and during mitigation.

POLICY 8A NEW DEVELOPMENTS OR EXPANSION OF EXISTING FACILITIES WILL NOT BE PERMITTED IF SUCH FACILITIES INTRODUCE HAZARDOUS WASTES OR OTHER POLLUTANTS INTO THE ENVIRONMENT OR IF THEY ARE UNABLE TO ACQUIRE THE NECESSARY STATE, FEDERAL, AND LOCAL PERMITS.

Explanation of Policy

Any person that discharges, causes or permits the discharge of waste within Newburgh is required to provide protection from accidental discharge of prohibited materials. Protection mechanisms must be provided and maintained at the owner and/or user's expense. Detailed plans showing facilities and operating procedures which will provide protection must be submitted for review, and must be deemed acceptable to the City before construction of the facility is started.

Property owners shall be responsible for eliminating garbage and other waste generated by their existing or expanded facilities. In case of accidental discharges of unacceptable waste, the City must be notified immediately to enable countermeasures to be taken by the city to minimize damage to the municipal sewage system, treatment facility, treatment processes and receiving waters. The owner of the property in question is liable for any expense, loss or damage to the sewer system, treatment plant or treatment process, and/or the purification of receiving waters.

Whenever a discharge of unacceptable waste is made in violation of this policy or applicable City ordinances which causes a condition of contamination, pollution or nuisance, the City may petition the State Supreme Court for issuance of a temporary or permanent injunction as is appropriate to restrain or prohibit the continuance of unlawful discharge. The handling (storage, transport, treatment and disposal) of the materials included on the hazardous waste list (NYCRR Part 366) are strictly regulated in New York State to prevent their entry or introduction into the environment, particularly into the State's air, land and waters. Such controls will effectively minimize possible contamination of and bio-accumulation in the State's coastal fish and wildlife resources at levels that cause mortality or create physiological and behavioral disorders.

Future development or activities on vacant and underutilized land that may negatively impact fish and wildlife will be restricted. The siting of facilities within the LWRP area that could introduce hazardous wastes or other pollutants into the environment will be avoided.

(See Policies 5, 7, 30, 33, 34, 35, 36, 37, 39, 40)

POLICY 9 **EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY INCREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCKS, AND DEVELOPING NEW RESOURCES. SUCH EFFORTS SHALL BE MADE IN A MANNER WHICH ENSURES THE PROTECTION OF RENEWABLE FISH AND WILDLIFE RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.**

POLICY 9A **INCORPORATION OF A PEDESTRIAN WALKWAY ALONG THE WATERFRONT AS PART OF DEVELOPMENT/REDEVELOPMENT OF WATERFRONT PARCELS SHALL BE ENCOURAGED WHEREVER POSSIBLE TO PROVIDE PUBLIC ACCESS FOR FISHING AND WILDLIFE OBSERVATION AND SCENIC VIEW APPRECIATION.**

Explanation of Policy

Recreational uses of coastal fish and wildlife resources include consumptive uses such as fishing and hunting and non-consumptive uses such as wildlife photography, bird watching and nature study. Any efforts to increase recreational use of these resources must be made in a manner which ensures the protection of fish and wildlife resources and which takes into consideration other activities dependent on these resources. Such increases, in other words, must not negatively affect existing resources or activities. Also, such efforts must be done in accordance with existing State law and in keeping with sound resource management considerations. Such considerations include biology of the species, carrying capacity of the resource, public demand, costs and available technology.

In order to expand and improve recreational fishing facilities, all efforts will be undertaken to facilitate orderly marina development and provision of boat slips, improve the local public boat launching facilities for recreational purposes and provide additional locations for waterfront access and recreational fishing where feasible and as land becomes available, such as the fishing pier and a commercial dock facility at Newburgh Landing. These efforts will be accomplished through the site plan approval process (see Section V).

Although there are no State-designated Significant Coastal Fish and Wildlife Habitats in Newburgh, efforts to supplement existing fish and wildlife stocks in the LWRP area for continued public enjoyment and to pursue the enforcement of a fish and wildlife resource management program will be supported. In particular, the City of Newburgh supports restoration efforts along Quassaick Creek.

The following guidelines shall be considered to determine whether or not a proposed action is consistent with this policy. State, Federal and local agencies determine the consistency of any of their proposed

actions, including possible restoration of fish passage for anadromous and potomodromous fish and conservation of habitats along the creek shoreline which are known to support bald eagle, cooper's hawk, black-crowned night heron and other species of birds, reptiles, amphibians and mammals.

1. Consideration shall be made as to whether an action will harm or impede existing or future utilization of the surrounding recreational fish and wildlife resources.
2. Efforts to increase access to recreational fish and wildlife resources shall not lead to overutilization of that resource or cause impairment of habitats. Sometimes such impairment can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter animals from using a habitat area.
3. The impacts of increasing access to recreational fish and wildlife resources shall be determined on a case-by-case basis, consulting with local officials on potential habitat areas and/or conferring with a trained fish and wildlife biologist.
4. Any public- or private-sector initiatives to supplement existing stocks (e.g., stocking a stream with fish reared in a hatchery) or develop new resources (e.g., creating private fee-hunting or fee-fishing facilities) shall be done in accord with existing State Law.

(See Policies 1, 2, 19, 19A, 20, 21, 22)

POLICY 10 FURTHER DEVELOP COMMERCIAL FINFISH, SHELLFISH, AND CRUSTACEAN RESOURCES IN THE COASTAL AREA BY ENCOURAGING THE CONSTRUCTION OF NEW, OR IMPROVEMENT OF EXISTING ON-SHORE COMMERCIAL FISHING FACILITIES, INCREASING MARKETING OF THE STATE'S SEAFOOD PRODUCTS, AND MAINTAINING ADEQUATE STOCKS AND EXPANDING AQUACULTURE FACILITIES.

Explanation of Policy

Commercial fishing of certain species of fish in the Hudson, such as American shad and freshwater herring, is currently allowed and there is a strong market demand for them. There is, however, a ban on the sale of most other species of fish due to the presence of PCBs in the Hudson. As a result, commercial fishing on the Hudson has been in steep decline in recent decades. However, if the PCB contamination is sufficiently remediated, commercial fishing for other species, such as striped bass, could again become economically viable. Aquaculture, or the cultivation of certain aquatic plants and animals in a controlled environment, may also be a renewable and potentially environmentally positive economic industrial and commercial use.

There are no commercial fishing activities within the City of Newburgh, but the City will, from time to time, review the need to promote such activities. Commercial fishery development activities must occur within the context of sound fishery management principles developed and enforced within the State's waters by the New York State Department of Environmental Conservation and the management plans developed by the Regional Fisheries Management Councils (Mid-Atlantic and New England) and enforced by the U.S. National Marine Fisheries Service within the Fishery Conservation Zone. Sound resource management considerations include optimum sustained yield levels developed for specific commercial fish species, harvest restrictions imposed by state and federal governments, and the economic, political (uses conflicts), and technological constraints to utilizing these resources.

Commercially important species which utilize the Hudson in the vicinity of Newburgh and Quassaick Creek include the alewife, blueback herring, American shad, striped bass, Atlantic sturgeon, tomcod, American eel, carp and white catfish. Opportunities to restore historic fish spawning habitat on and around the Quassaick Creek will be encouraged.

The following additional guidelines will be considered by State and federal agencies as they determine the consistency of their proposed action with the policy:

1. A public agency's commercial fishing development initiative shall not preempt or displace private sector initiative.
2. A public agency's efforts to expand existing or create new on-shore commercial fishing support facilities shall be directed towards unmet development needs rather than merely displacing existing commercial fishing activities from a nearby port. This may be accomplished by taking into consideration existing state or regional commercial fishing development plans.
3. Consideration shall be made by state and federal agencies whether an action will impede existing utilization or future development of the state's commercial fishing resources.
4. Commercial fishing development efforts shall be made in a manner which ensures the maintenance and protection of the renewable fishery resources.

(See Policies 1, 1A, 1B, 1C, 4, 4A)

FLOODING AND EROSION POLICIES

POLICY 11

BUILDINGS AND OTHER STRUCTURES WILL BE SITED IN THE COASTAL AREA SO AS TO MINIMIZE DAMAGE TO PROPERTY AND THE ENDANGERING OF HUMAN LIVES CAUSED BY FLOODING AND EROSION.

POLICY 11A **ALL DEVELOPMENT ON PROPERTY WHICH INCLUDES FLOOD HAZARD AREAS WILL BE LOCATED AT AN ELEVATION ABOVE THE 100-YEAR-FLOOD PLAIN.**

Explanation of Policy

There are no erosion hazard areas within the Newburgh LWRP area. Flood hazard areas can be found along both the Hudson River and Quassaick Creek and extending inland along Quassaick Creek to Muchattoes Lake. New development in these areas must be located at an elevation above the 100-year flood plain. Where human lives may be endangered, all necessary emergency preparedness measures will be taken as prescribed the disaster preparedness plan. No floodways have been identified by FEMA within the City of Newburgh.

The City of Newburgh participates in the National Flood Insurance Program in conjunction with the Federal Emergency Management Agency.

Residential, industrial and commercial development within flood hazard areas is regulated by the Flood Damage Prevention Ordinance of the City of Newburgh. Certain water-dependent uses as well as piers, docks and other structures necessary to gain access to the water are permitted; but construction to minimize damage from flooding and erosion is required. Existing, non-conforming structures located in flood hazard areas may not be expanded or enlarged.

(See Policies 12, 14, 17)

POLICY 12 **ACTIVITIES OR DEVELOPMENT IN THE COASTAL AREA WILL BE UNDERTAKEN SO AS TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION BY PROTECTING NATURAL PROTECTIVE FEATURES INCLUDING BEACHES, DUNES, BARRIER ISLANDS AND BLUFFS.**

POLICY 12A **MAJOR GRADING AND CLEARING ACTIVITIES WILL BE DISCOURAGED ON THE WASHINGTON HEIGHTS BLUFF TO AVOID SOIL EROSION IMPACTS TO QUASSAICK CREEK AND THE HUDSON RIVER.**

Explanation of Policy

While there are no erosion hazard areas within the LWRP area, the LWRP recognizes the uniqueness of the Washington Heights bluff, which will be protected through implementation of appropriate erosion control measures. This area will be protected from encroachment, since any soil erosion would ultimately discharge to Quassaick Creek and the Hudson River. Minor activities would be allowed, provided best-

management practices are utilized, including grading or clearing activities to link any potential passive trail system with the Washington Heights area. Existing disturbed areas for this type of connection would be used to the greatest extent practicable.

The remaining protective natural features referenced in Policy 12 do not exist in Newburgh; thus, those portions of the policy are not applicable.

(See Policies 11B, 14, 17)

POLICY 13 **THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES SHALL BE UNDERTAKEN ONLY IF THEY HAVE A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST THIRTY YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS.**

Explanation of Policy

Erosion protection structures are widely used throughout the State's coastal area. However, because of improper design, construction and maintenance standards, many fail to give the protection which they are presumed to provide. As a result, development is sited in areas where it is subject to damage or loss due to erosion. This policy will help ensure the reduction of such damage or loss.

Erosion protection features are necessary in the City of Newburgh at this time. Excavation of coastal features, improperly designed structures, inadequate site planning, or other similar actions which fail to recognize the shoreline's fragile nature and protective values may lead to the weakening or destruction of the City's existing landforms and will be prohibited. Activities or development on, or in proximity to, natural protective features must ensure that any such adverse efforts will be minimized.

The existing shoreline in Newburgh shall be protected, since such topographical features give the City its valued visual character. Excavation, grading and major landform changes will not be permitted. Bulkheading improvements shall be made as necessary, including maintenance, extensive repairs and expansions to provide adequate protection for waterfront properties. Erosion control practices including rip-rap stabilization will continue to be implemented to preserve the existing land area immediately adjacent to the river, and protect the river walkway and buildings along the river's edge.

A condition assessment of Newburgh's shoreline structures conducted as part of the LWRP process indicated that the majority of the structures are in fair to good condition and do not require intervention to ensure adequate protection to the Hudson River shoreline. Some areas may be in need of further investigation or minor repair, but in general the shoreline structures are fulfilling their function of

shoreline protection. In general, removal of vegetation or established debris must be undertaken with caution, as their removal could cause the structures to become unstable. See the Appendix for the full condition assessment.

Repair and replacement of bulkheads will follow these guidelines:

1. Wherever possible, repair or replacement shall be located at the same location or landward as that of the old bulkhead so as not to encroach further on the water course.
2. Any repair work will be designed in accordance with the existing design or better, based on the professional opinion of a licensed engineer, and as determined through the site plan approval and local consistency law processes.
3. Existing, non-conforming bulkheads shall not be expanded or enlarged. Every effort shall be made to bring these structures up to current code, in cooperation with the City's Department of Codes Compliance and via the site plan approval and local consistency law processes.

In the repair or replacement of bulkheads, the use of softscape versus hardscape will depend primarily upon the environmental conditions and needs of the particular portion of the shoreline, and of the adjacent land use. Such repair or replacement on individual sites will be encouraged in conjunction with waterfront redevelopment projects affecting those same sites. Softscape measures such as "bio-engineered" vegetative slope stabilization can provide viable long-term, lower-impact alternatives to hardscape structures, but may initially require a higher level of maintenance attention. Hardscape structures include vertical timber or steel bulkheads, which have an anticipated functional life of 15 to 20 years, and riprap revetments, with anticipated functional life of 25 to 50 years.

(See Policies 12, 16)

POLICY 14 **ACTIVITIES AND DEVELOPMENT, INCLUDING THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES, SHALL BE UNDERTAKEN SO THAT THERE WILL BE NO MEASURABLE INCREASE IN EROSION OR FLOODING AT THE SITE OF SUCH ACTIVITIES OR DEVELOPMENT, OR AT OTHER LOCATIONS.**

Explanation of Policy

Erosion and flooding are processes which occur naturally. However, by their actions, humans can increase the severity and adverse effects of those processes, causing damage to or loss of property and endangering human lives. Those actions include: the use of erosion protection structures such as groins, jetties and bulkheads; the use of impermeable docks which block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; the failure to observe proper drainage or land restoration practices, thereby causing runoff and the erosion and weakening of shorelands and wetlands; and the placing of structures in identified floodways so that the basic flood level is increased causing damage in otherwise hazard-free areas.

All development proposed within the LWRP area must receive site plan approval from the Planning Board in consultation with the CAC. Site plan review will monitor developments to ensure that actions will not be taken which may result in the damage to or loss of property and endangerment of human lives.

All new developments will be required to install the proper drainage facilities in order to eliminate the possibility of excessive runoff that may cause or increase erosion.

Any new developments located directly along the waterfront must include necessary erosion protection features. Existing bulkheading must be maintained, repaired and expanded as necessary to protect investments.

(See Policies 1, 2, 11, 12, 13, 16)

POLICY 15 MINING, EXCAVATION OR DREDGING IN COASTAL WATERS SHALL NOT SIGNIFICANTLY INTERFERE WITH THE NATURAL COASTAL PROCESSES WHICH SUPPLY BEACH MATERIALS TO LAND ADJACENT TO SUCH WATERS AND SHALL BE UNDERTAKEN IN A MANNER WHICH WILL NOT CAUSE AN INCREASE IN EROSION OF SUCH LAND.

Explanation of Policy

Coastal processes, including the movement of beach materials by water, and any mining, excavation or dredging in nearshore or offshore waters which changes the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. Such mining, excavation and dredging will be accomplished in a manner so as not to cause a reduction of supply, and thus an increase of erosion, to such shorelands. All dredging activities proposed under this program will be done in a manner that is consistent with the U.S. Army Corps of Engineers' requirements and which does not increase shoreline erosion.

Best available technology must be used to minimize the dispersion of silt that may be released as a result of dredging and mining activities. Any dredging, excavation or mining activities in the coastal area must be accomplished in a manner that will not significantly impact habitat and wetland areas. When dredging occurs near docks, bulkheads or unprotected shoreline, it must be done in a manner that will not dislodge pilings or cause piling slumping on adjacent lands.

(See Policies 35, 44)

POLICY 16 PUBLIC FUNDS SHALL ONLY BE USED FOR EROSION PROTECTIVE STRUCTURES WHERE NECESSARY TO PROTECT HUMAN LIFE, AND NEW DEVELOPMENT WHICH REQUIRES A LOCATION WITHIN OR ADJACENT TO AN EROSION HAZARD AREA TO BE ABLE TO FUNCTION, OR EXISTING DEVELOPMENT; AND ONLY WHERE THE PUBLIC BENEFITS OUTWEIGH THE LONG TERM MONETARY AND OTHER COSTS INCLUDING THE POTENTIAL FOR INCREASING EROSION AND ADVERSE EFFECTS ON NATURAL PROTECTIVE FEATURES.

Explanation of Policy

Public funds are used for a variety of purposes on the State's shorelines. This policy recognizes the public need for the protection of human life and existing investments in development and for new developments which require a location in proximity to the coastal area or in adjacent waters to be able to function. However, it also recognizes the adverse impacts of such activities on the rate of erosion and on natural protective features. It requires careful analysis of benefits and long-term cost prior to expending public funds.

POLICY 17 WHENEVER POSSIBLE, USE NON-STRUCTURAL MEASURES TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION. SUCH MEASURES SHALL INCLUDE: (I) THE SET BACK OF BUILDINGS AND STRUCTURES; (II) THE PLANTING OF VEGETATION AND THE INSTALLATION OF SAND FENCING AND DRAINING; (III) THE RESHAPING OF BLUFFS; AND (IV) THE FLOOD-PROOFING OF BUILDINGS OR THEIR ELEVATION ABOVE THE BASE FLOOD LEVEL.

Explanation of Policy

Although existing flood problems in the City of Newburgh are largely due to stormwater runoff and not offshore flooding, this policy shall be followed as necessary. It recognizes both the potential adverse impacts of flooding and erosion upon development and upon natural protective features in the coastal

area as well as the costs of protection against those hazards which structural measures entail. Thus, the City of Newburgh recognizes that there are areas along the waterfront where structural measures are not necessary to protect property and natural resources against flooding and erosion. Non-structural measures would afford the degree of protection appropriate to the character of these areas, the purpose or activity, and to the hazard.

Non-structural measures shall include, but not be limited to:

- Within identified flood hazard areas, (a) whenever possible, the avoidance of risk or damage from flooding by the siting of buildings outside the hazard area, and (b) the flood-proofing of buildings or their elevation above the base flood level.

This policy shall apply to the planning, siting and design of proposed activities and development, including measures to protect existing activities and development. To find out whether or not an action is consistent with the policy, it must be determined if any one, or a combination of, non-structural measures would appropriately protect both the character and purpose of the activity or development, and eliminate or reduce hazards. If non-structural measures are determined to offer sufficient protection, then consistency with the policy would require the use of such non-structural measures, whenever possible.

In determining whether or not non-structural measures to protect against erosion or flooding will offer appropriate protection, an analysis and other materials such as plans or sketches of the activity or development, of the site and of the alternative protection measures will be prepared to allow an assessment to be made.

All structures located within the waterfront area shall be sited outside of the 100-year flood zone unless no practical alternatives exist, such as piers, docks and/or floating structures.

(See Policies 1, 2, 11, 12, 14, 16)

GENERAL POLICY

POLICY 18 **TO SAFEGUARD THE VITAL ECONOMIC, SOCIAL AND ENVIRONMENTAL INTERESTS OF THE STATE AND OF ITS CITIZENS, PROPOSED MAJOR ACTIONS IN THE COASTAL AREA MUST GIVE FULL CONSIDERATION TO THOSE INTERESTS, AND TO THE SAFEGUARDS WHICH THE STATE HAS ESTABLISHED TO PROTECT VALUABLE COASTAL RESOURCE AREAS.**

Explanation of Policy

Proposed major actions must take into account the social, economic and environmental interests of the State and its citizens in such matters that would affect natural resources, water levels and flows, shoreline damage, hydro-electric power generation and recreation. Consistency with applicable program policies, site plan and development requirements, flood protection requirements and all other pertinent local ordinances will be enforced.

(See Policies 1, 1A, 1B, 1C, 1D)

POLICY 18A MAINTAIN AND IMPROVE EXISTING LOW- AND MODERATE-INCOME HOUSING AND PROVIDE ADDITIONAL SUCH HOUSING.

Explanation of Policy

This policy calls for safeguarding the economic, social and environmental interests of the Newburgh residents living within the coastal area. The City's adopted Sustainable Master Plan proposes a number of measures to assure the long-term availability of affordable housing opportunities, including: adopting an affordable housing ordinance to establish a mechanism for creating and supporting permanently affordable housing units; providing that at least 10 percent of the City's housing stock contains affordability provisions; enacting inclusionary zoning measures; establishing a Community Land Trust, cooperative housing or other form of local ownership; and rent stabilization. It is assumed that the City will be drafting these proposed housing measures as it implements the Sustainable Master Plan. In addition, all housing within the City of Newburgh, including the coastal area, shall conform to Chapter 190 of the Code, also known as the Minimum Housing Standards Ordinance. Impacts on affordable housing will be considered and mitigative measures pursued when new development proposals are evaluated and approved.

PUBLIC ACCESS POLICIES

POLICY 19 PROTECT, MAINTAIN AND INCREASE THE LEVEL AND TYPES OF ACCESS TO PUBLIC WATER-RELATED RECREATION RESOURCES AND FACILITIES SO THAT THESE RESOURCES AND FACILITIES MAY BE FULLY UTILIZED IN ACCORDANCE WITH REASONABLY ANTICIPATED PUBLIC RECREATION NEEDS AND THE PROTECTION OF HISTORIC AND NATURAL RESOURCES. IN PROVIDING SUCH ACCESS, PRIORITY SHALL BE GIVEN TO PUBLIC BEACHES, BOATING FACILITIES, FISHING AREAS AND WATERFRONT PARKS.

Explanation of Policy

This policy calls for a balance among the level of access to a resource or facility, the capacity of a resource or facility, and the protection of natural resources. Priority will be given to improving physical access to existing and potential recreation sites within the heavily populated urban coastal areas of the State (such as the Newburgh Landing area and, if economically and physically feasible, to new development areas) and to increasing the ability of urban residents to get to coastal recreation areas by improved public transportation. The particular water-related recreation resources and facilities which will receive priority for improved access are boating facilities, fishing areas and waterfront parks (See Policies 1 and 2). Water-related resources include both water-dependent and water-enhanced uses. In addition, because of the greater competition for waterfront locations within urban areas, this policy calls for encouraging mixed-use areas and multiple uses of facilities to improve access.

Newburgh Landing Park, the reconstructed Washington Street Boat Launch area, the fishing pier and Ward Brothers Memorial Rowing Park provide direct public access to the Hudson River.

Newburgh Landing Park includes recently constructed restrooms, and plans call for additional facilities to be located around the dock area that is now being redesigned and improved, as well as for improvements to the landscape design of the park. Other improvements, including a new public walkway, new parking areas and a fishing pier, are discussed below in Policy 19A.

The Newburgh Yacht Club, another water-dependent recreation facility, is not easily accessible for the public. 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; however, a restaurant attached to the club is open to the public.

There is limited direct public access to the Quassaick Creek area of the waterfront. The City supports 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 County-owned land in New Windsor with City-owned lands and potentially linking River Road 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 public uses such as hiking trails. Plans are underway 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 will be included in the Estuary Preserve and Trail, with other lands in this area to be added where possible.

The following guidelines will be used in determining the consistency of a proposed action with this policy:

1. The existing access from public lands or facilities to public water-related recreation resources and facilities shall not be reduced, nor shall the possibility of increasing access in the future from public lands or facilities to public water-related recreation resources and facilities be eliminated, unless in the latter case, estimates of future use of these resources and facilities are too low to justify maintaining or providing increased public access or unless such actions are found to be necessary or beneficial by the public body having jurisdiction over such access. This shall not preclude the relocation of existing public facilities to other waterfront sites if required as part of a comprehensive redevelopment process.
2. Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:
 - a. The level of access to be provided will be in accord with estimated public use.
 - b. The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource or facility.
3. The State will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
4. In their plans and programs for increasing public access to public water-related resources and facilities, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

Reductions in existing levels of public access will not be permitted. Such prohibited reductions of existing levels would include, but would not be limited to the following:

- (1) The number of parking spaces at a public water-related recreation resource or facility is significantly reduced, such that there are insufficient spaces to accommodate the public demand for such resource or facility.
- (2) The service level of public transportation to a public water-related recreation resource or facility is significantly reduced during peak season use and such reduction cannot be reasonably justified in terms of meeting systemwide objectives.

- (3) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines or similar linear facilities.
- (4) There are substantial increases in the following: already existing special fares (not including regular fares in any instance) of public transportation to a public water-related recreation resource or facility, except where the public body having jurisdiction over such fares determines that such substantial fare increases are necessary; and/or admission fees to such a resource or facility, and an analysis shows that such increase will significantly reduce usage by individuals or families with incomes below the State government established poverty level.

The possibility of increasing public access to the waterfront in the future will not be eliminated. The following activities will not be permitted unless the actions are found by the City to be necessary or to be of greater benefit to the common good.

- (1) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities.
- (2) Construction of private facilities which physically prevent the provision of convenient public access to public water-related recreation resources or facilities from public lands and facilities.

POLICY 19A IMPROVE PEDESTRIAN, VEHICULAR (MOTORIZED AND NON-MOTORIZED) AND PUBLIC ACCESS TO NEWBURGH LANDING AND WATERFRONT PARK AND ANY NEW DEVELOPMENTS ALONG THE HUDSON RIVER. MINIMIZE THE BARRIER CREATED BY THE RAILROAD EMBANKMENT THROUGH LANDSCAPING AND RELATED AMENITIES.

Explanation of Policy

The intent of this policy is to provide public access along the Hudson River and to link various public recreation facilities via multi-modal transportation systems in a manner that is compatible with the function of development and revitalization in terms of design, landscaping, lighting and periods of use. It is also intended that an important secondary purpose of these facilities is to provide a visually attractive pedestrian/bicycle trail that ties the waterfront and various public recreation facilities and encourages visitors and residents to make use of these facilities.

Improved public access to the river in the vicinity of Lower Broadway and in conjunction with all new waterfront developments will be encouraged where feasible. Public transportation shall incorporate waterfront stops on its routes.

A public boat launch facility to serve all City residents is located at the foot of Washington Street. Consideration must be given to both pedestrian access and vehicular access. At the boat launch, adequate parking for boat trailers is provided. Because the City wishes to limit the amount of waterfront property dedicated to parking, provision of a shuttle service from upland parking lots may be desirable in the future.

Temporary docking facilities are available at several marinas and public docking facilities along Newburgh's Hudson River frontage, including Newburgh Landing. Commercial projects on former urban renewal properties on both sides of the Landing include the provision of boat slips and development of a marina. To create a link between the waterfront and the upland residential and business districts, safe and well-lit walkways will be provided under the railroad tracks. Proposed waterfront developments may require reopening of previously blocked railroad underpasses to provide additional pedestrian access to the river. A pedestrian reopening has occurred at the underpass for Second Street. Pedestrian crossing signals shall be installed along Rev. Dr. Martin Luther King Jr. Boulevard as waterfront development occurs.

The City has retained ownership of a 20-foot strip of riverfront property extending from Carpenter Street to South Street and adjoining commercial development in this area. Construction of a public walkway in this area was completed in 2001. The 12-foot walkway was designed with period lighting, street trees, benches and waste receptacles. The walkway through Newburgh Landing and the adjacent City-owned parcels enhances access to the Hudson River shoreline, while a new public parking area on the west side of Front Street provides access to these amenities. In addition, a fishing pier at the eastern limit of First Street has been constructed.

The City proposes the development of a walkway that would ultimately extend along the entire length of the Hudson River waterfront, including extension of the walkway along City property. The walkway will be available for public use and be designed so as to safely and efficiently accommodate both pedestrians and non-motorized vehicles (bicycles, scooters, etc.), as well as swimming facilities.

(See Policies 1B, 1C, 1D, 2, 9, 9A, 20, 21, 22)

POLICY 19B **IMPLEMENT IMPROVEMENTS TO THE TRANSPORTATION ELEMENTS WITHIN THE WATERFRONT AREA AND PROVIDE IMPROVED TRANSIT LINKS BETWEEN THE WATERFRONT AND THE REGION. IN PARTICULAR, PURSUE TRANSIT LINKS AMONG THE WATERFRONT, UPLAND AREAS, DOWNTOWN NEWBURGH, THE BROADWAY CORRIDOR AND STEWART INTERNATIONAL AIRPORT.**

Explanation of Policy

The intent of this policy is to provide improvements to the transportation elements within the LWRP area, including transit links between the waterfront, upland areas, downtown Newburgh, the Broadway Corridor, Stewart International Airport and the region as a whole.

The City of Newburgh strongly supports the expansion of Stewart International Airport and encourages possible future transit connections among the airport, the Broadway corridor, downtown Newburgh, the LWRP area and the Newburgh-Beacon ferry. Examples include, depending on feasibility, a trolley linking various areas of the waterfront with the ferry or expansion of bus service to connect the waterfront to Stewart International Airport and other key areas of the City. In order to capitalize on the many transit elements within the area, the City will identify and implement improvements to the transportation and transit infrastructure within the LWRP area and the City as a whole that best provide for increased transit access to the Waterfront.

(See Policies 1B, 1C, 1D, 2)

POLICY 19C BEST-MANAGEMENT PRACTICES WILL BE USED TO ENSURE THE EFFICIENT PROVISION OF PARKING FACILITIES WHILE REDUCING THE AMOUNT OF IMPERVIOUS SURFACES AND RESULTANT STORMWATER RUNOFF.

Explanation of Policy

The parking supply along Newburgh’s waterfront will influence how the public accesses and uses the waterfront. Parking services provided by the City include on-street parking, several off-street parking lots and the enforcement of parking ordinances. The City has opportunities to influence off-street parking through its land use regulations. A balance must be achieved that does not overcompensate for single-occupancy vehicles, which would also serve as a disincentive for ridesharing and public transit usage.

Structured parking is expensive to build and use, and it also encourages the continued dominance of automobiles within Newburgh. Surface parking consumes large areas of land and results in significant amounts of impervious surface areas. Shared parking facilities represent the most efficient use of limited resources. The City should explore development incentives that promote the use of shared parking, as well as the use of “green” technologies that reduce the amount of impervious surfaces and potential runoff.

(See Policies 1E, 33 and 37)

POLICY 20 **ACCESS TO THE PUBLICLY OWNED FORESHORE AND TO LANDS IMMEDIATELY ADJACENT TO THE FORESHORE OR THE WATER'S EDGE THAT ARE PUBLICLY OWNED SHALL BE PROVIDED, AND IT SHOULD BE PROVIDED IN A MANNER COMPATIBLE WITH ADJOINING USES. SUCH LANDS SHALL BE RETAINED IN PUBLIC OWNERSHIP.**

POLICY 20A **WHERE REDEVELOPMENT OF CITY-OWNED WATERFRONT PROPERTY IS UNDERTAKEN, PUBLIC WATERFRONT WALKWAYS AND OPEN SPACES WILL BE INCORPORATED INTO THE NEW DEVELOPMENT; AND PROVISION WILL BE MADE TO LINK SUCH PUBLIC AREAS IN A NETWORK OF PUBLIC WALKWAYS AND OPEN SPACES WITHIN THE COASTAL AREA.**

Explanation of Policy

Access to publicly owned land within the LWRP area will be provided for activities which require a minimal amount of facilities for their enjoyment. Examples of activities requiring access would include walking along the waterfront, the enjoyment of scenic resources, bicycling, bird watching, photography, nature study and fishing.

For these activities, there are several methods of providing access. These include: the development of a waterfront trails system; the provision of access across transportation facilities to the waterfront; the improvement of access to the waterfront; and the promotion of mixed- and multi-use development.

While such publicly owned lands referenced in the policy shall be retained in public ownership, granting of easements on lands underwater to adjacent on shore property owners are consistent with this policy, provided such easements do not interfere with continued public use of the public lands on which the easement is granted. Also, public use of such publicly owned underwater lands and lands immediately adjacent to the shore shall be discouraged where such use would be inappropriate for reasons of public safety, and/or the protection of fragile coastal resources.

The following guidelines as well as those described in Policy 19 will be used in determining the consistency of a proposed action with this policy:

1. Existing access from public lands or facilities to existing public waterfront lands and/or waters shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or nearby public lands or facilities to public coastal lands and/or waters be eliminated, unless such actions are demonstrated to be of overriding regional or statewide public benefit, or in the latter case, estimates of future use of these lands and waters are too low to justify maintaining or providing increased access.

2. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development, except where (a) it is inconsistent with public safety, or the protection of identified fragile coastal resources or where, (b) adequate access exists within one-half mile. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

When waterfront land becomes available for possible public use, the City will work with property owners to achieve public access to the water through acquisition, easements, lease or other mutually acceptable solution. (See Policies 2, 9, 19, 21, 22)

RECREATION POLICIES

POLICY 21 WATER-DEPENDENT AND WATER ENHANCED RECREATION WILL BE ENCOURAGED AND FACILITATED, AND WILL BE GIVEN PRIORITY OVER NON-WATER RELATED USES ALONG THE COAST, PROVIDED IT IS CONSISTENT WITH THE PRESERVATION AND ENHANCEMENT OF OTHER COASTAL RESOURCES AND TAKES INTO ACCOUNT DEMAND FOR SUCH FACILITIES. IN FACILITATING SUCH ACTIVITIES, PRIORITY SHALL BE GIVEN TO AREAS WHERE ACCESS TO THE RECREATION OPPORTUNITIES OF THE COAST CAN BE PROVIDED BY NEW OR EXISTING TRANSPORTATION SERVICES AND TO THOSE AREAS WHERE THE USE OF THE SHORE IS SEVERELY RESTRICTED BY EXISTING DEVELOPMENT.

Explanation of Policy

Water-related recreation includes such obviously water-dependent activities as boating, fishing and wildlife viewing as well as certain activities which are enhanced by a coastal location and increase the general public's access to the coast such as pedestrian and bicycle trails, picnic areas and passive recreation areas that take advantage of coastal scenery.

Provided the development of water-related recreation is consistent with the preservation and enhancement of such important coastal resources as fish and wildlife habitats, aesthetically significant areas, historic and cultural resources, agriculture and significant mineral and fossil deposits, and provided demand exists, water-related recreation development is to be increased and such uses shall have a higher priority than any non-coastal dependent uses, including non-water-related recreation uses. In addition, water-dependent recreation uses shall have a higher priority over water-enhanced recreation uses.

Among priority areas for increasing water-related recreation opportunities are those areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and those areas where the use of the shore is severely restricted by highways, railroads, industry or other forms of existing intensive land use or development.

The siting or design of new public development in a manner which would result in a barrier to the recreational use of a major portion of a community's shore will be avoided as much as practicable.

Among the types of water-dependent recreation, provision of adequate boating services to meet future demand is to be encouraged by this Program. To that end, improvements to the docking facilities at Newburgh Landing are supported and encouraged.

(See Policies 19, 19A)

**POLICY 21A ENCOURAGE ADDITIONAL AND IMPROVE EXISTING WATERFRONT ACCESS
ALONG THE HUDSON RIVER AND THE QUASSAICK CREEK TO HELP INCREASE
PUBLIC ENJOYMENT OF THE WATERFRONT AND THE RECREATIONAL USAGE OF
FISH AND WILDLIFE HABITATS.**

Explanation of Policy

Public recreation, both active and passive, will be promoted along the shore where possible, economically feasible, and consistent with City planning and economic development objectives. Multi-use developments which provide public access to the shore in combination with residential and commercial uses will be encouraged on the vacant and underutilized parcels between the wastewater treatment plant and Nicoll Street. Multi-use developments could include such uses as picnic areas, walkways and/or bikeways, and/or passive recreation areas for fishing or visual enjoyment of the water.

Where redevelopment of City-owned waterfront property is undertaken, public waterfront walkways and open space will be incorporated into the new development. As part of the commercial redevelopment of the parcels on both sides of Newburgh Landing, the City has retained ownership of a 20-foot strip of riverfront property extending from Carpenter Street to South Street and adjoining new commercial development. Construction of a 12-foot public walkway was completed in 2001. The walkway through Newburgh Landing and the adjacent City-owned parcels enhances access to the Hudson River shoreline, while a new public parking area on the west side of Front Street provides access to these amenities. In addition, a fishing pier at the eastern limit of First Street has been constructed. Wherever redevelopment of private waterfront property is reviewed for approval, every effort will be made, through the site plan approval process, to secure easements to extend the public waterfront walkway.

Recreational uses along the Quassaick Creek shall be of low intensity. A quiet corridor along the Creek will be developed where feasible to promote public enjoyment of the fish and wildlife habitats of the stream corridor and its forested glen and to provide hiking and greenway trail connections in the corridor and with other destinations in the City and its environs.

(See Policy 19)

POLICY 21B DOCKING FACILITIES FOR TRANSIENT VESSELS, ESPECIALLY LARGE PASSENGER VESSELS, WILL BE PROVIDED WHEREVER POSSIBLE IN NEW DEVELOPMENT AND AT EXISTING PUBLIC LAUNCH AND DOCKING AREAS.

Explanation of Policy

As waterborne travel and recreation increases, it is important that docking and mooring facilities be provided so that visitors can arrive via the Hudson River. Determination of the number and location of these facilities will be based on the consideration of water depths and bottom conditions, the availability of suitable on-land access areas to serve moorings, the need to avoid conflicts with traditional water uses and navigation patterns and the need to achieve the most efficient use of available mooring and docking locations without adversely impacting navigational safety. On-shore facilities and services needed by boaters will be provided within new development. Economic revitalization plans shall incorporate tourism and promote the resources that attract tourists.

(See Policies 1, 2, 4, 9, 9A, 19, 20, 22)

POLICY 22 DEVELOPMENT, WHEN LOCATED ADJACENT TO THE SHORE, WILL PROVIDE FOR WATER-RELATED RECREATION, AS A MULTIPLE USE, WHENEVER SUCH RECREATIONAL USE IS APPROPRIATE IN LIGHT OF REASONABLY ANTICIPATED DEMAND FOR SUCH ACTIVITIES AND THE PRIMARY PURPOSE OF THE DEVELOPMENT.

Explanation of Policy

Many developments present practical opportunities for providing recreation facilities as an accessory use. Therefore, developments located at the shoreline shall incorporate some form of water-related recreation use unless there are compelling reasons why any form of such recreation would not be compatible with the development, or a reasonable demand for public use cannot be foreseen.

The types of development which may occur or which already exist along Newburgh's waterfront and which can generally provide water-related recreation as a multiple use include but are not limited to:

- parks
- multi-family developments
- commercial developments, including aquaculture
- specialized industries
- utility transmission rights-of-way
- sewage treatment facilities
- nature preserves
- historical properties redevelopment
- public vessel waste pump-out stations

Appropriate recreation uses that do not require any substantial additional construction shall be provided at the expense of a project sponsor provided the cost does not exceed two percent (2%) of total project cost.

Public safety will be considered in determining whether compelling reasons exist which would make recreation inadvisable as a multiple use.

Whenever a proposed development would be consistent with the LWRP policies and the development could, through the provision of recreation and other multiple uses, significantly increase public use of the shore, then such development will be encouraged to locate adjacent to the shore.

**POLICY 22A DEVELOPMENT ALONG THE WATERFRONT IN THE WASHINGTON STREET,
LOWER BROADWAY, NEWBURGH LANDING AND NEWBURGH YACHT CLUB
AREAS SHALL BE ENCOURAGED TO PROVIDE PUBLIC ACCESS.**

Explanation of Policy

New developments and/or the rehabilitation or expansion of existing developments located along the waterfront, especially in the Washington Street, Lower Broadway, Newburgh Landing and Newburgh Yacht Club areas, will be encouraged to provide public access including but not limited to fishing access, walkways and bike paths to and along the shore.

(See Policies 1, 19, 20)

HISTORIC AND SCENIC RESOURCES POLICIES

POLICY 23 **PROTECT, ENHANCE AND RESTORE STRUCTURES, DISTRICTS, AREAS OR SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHEOLOGY OR CULTURE OF THE STATE, ITS COMMUNITIES, OR THE NATION.**

POLICY 23A **NO CHANGES IN ANY EXTERIOR ARCHITECTURAL FEATURE, INCLUDING, BUT NOT LIMITED TO, CONSTRUCTION, ALTERATION, RESTORATION, REMOVAL, DEMOLITION, OR PAINTING, SHALL BE MADE TO IDENTIFIED RESOURCES EXCEPT AS HEREINAFTER PROVIDED.**

Explanation of Policy

Among the most valuable of the State's man-made resources are those structures or areas which are of historic, archaeological or cultural significance. The protection of these structures must involve recognition of their importance by all agencies and the ability to identify and describe them. Protection must include concern not just with specific sites but with areas of significance and with the area around specific sites. The policy is not to be construed as a passive mandate, but must include active efforts, when appropriate, to rebuild, restore or revitalize through adaptive reuse.

Within Newburgh, these resources include the architectural design districts and historic districts designated on the zoning map; structures, sites and districts listed or eligible for listing on the National and State Register of Historic Places; and archaeologically sensitive areas and sites listed in the State inventory maintained by the Office of Parks, Recreation and Historic Preservation and the New York State Museum.

Much of the LWRP area is located within the East End Historic District, generally bounded by Monument Street; Bay View Terrace; Colden, Edwards and Water Streets; Washington Street; Grand and High Streets; Montgomery Street; Water Street; Broad Street; Forsyth Place; LeRoy Place; Liberty Street; and Gidney Avenue and subject to the City's Landmark Preservation Law. In addition to the East End Historic District, there are five structures and one site individually designated on the National Register of Historic Places. These are 1) Washington's Headquarters (Hasbrouck House); 2) the David Crawford House; 3) the Dutch Reformed Church (also a National Historic Landmark and recognized by the World Monument Fund) 4) the U.S. Post Office, 5) the Newburgh Armory and 6) Old Town Cemetery and the Palatine Church site. The Old Town Cemetery and Palatine Church site are also listed on the New York State Register of Historic Places.

Structures, districts, areas or sites of significance in the history, architecture, archeology or culture of the State, the City of Newburgh and the Nation are found in the LWRP Area. In order to provide for the

promotion of the educational, cultural, economic and general welfare of the people of Newburgh, all practical means shall be taken to prevent significant adverse change to these structures and to retain them as significant historic and archeological resources.

A significant adverse change includes but is not limited to:

1. Alteration of or addition to one or more of the architectural, structural ornamental or functional features of a building, structure or site that is a recognized historic, cultural or archeological resource. (To the extent they are relevant, the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" shall be adhered to.)
2. Demolition or removal in full or part of a building, structure, or earthworks that is a recognized historic, cultural, or archeological resource.
3. All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archeological resource and all actions within an historic district that would be incompatible with the objective of preserving the quality and integrity of the resource. Primary considerations to be used in making judgment about compatibility shall focus on the visual and locational relationship between the proposed action and the special character of the historic, cultural, or archeological resource. Compatibility between the proposed action and the resource means that the general appearance of the resource shall be reflected in the architectural style, design material, scale, proportion, composition, mass, line, color, texture, detail, setback, landscaping and related items of the proposed actions. With historic districts this would include infrastructure improvements or changes, such as, street and sidewalk paving, street furniture and lighting.

This policy shall not prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthworks, or component thereof of a recognized historic, cultural or archeological resource which has been officially certified as being imminently dangerous to life or public health. The policy shall not prevent the ordinary maintenance, repair, or proper restoration according to the U.S. Department of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" of any building, structure, site or earthwork, or component thereof of a recognized historic, cultural or archeological resource.

In order to further protect archaeologically sensitive areas and sites listed in the State inventory maintained by the NYS Office of Parks, Recreation and Historic Preservation (OPRHP) and the New York State Museum, Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law

requires that, if a State action is involved, OPRHP must be consulted when evaluating individual proposals that involve soil disturbance to determine if any resources will be adversely affected. In addition, if there is any Federal agency involvement, the Advisory Council on Historic Preservation's regulations "Protection of Historic and Cultural Properties" 36 CFR 800, require that agency to initiate consultation with the OPRHP.

The City recognizes the potential for submerged historic, archaeological and cultural resources and artifacts that may be located in the Hudson River within the City's LWRP and HMP boundaries. Shipwrecks and other submerged artifacts also comprise a growing tourism economic resource, attracting divers and cultural tourists. The NYS Office of General Services (OGS) participates in an interagency Ad-Hoc Committee for Submerged Cultural Resources which is responsible for establishing shipwreck preserves, as well as preservation considerations for submerged cultural resources. The Committee is comprised of NYS OGS; the OPRHP; the New York State Museum; the NYSDEC and the Department of State, Division of Coastal Resources. The City will coordinate with these groups during review of any plans that might potentially affect said resources.

Activities that protect and restore historic structures and districts while at the same time promote and enhance the entire LWRP area will be supported and encouraged by the City.

POLICY 24 PREVENT IMPAIRMENT OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE, AS IDENTIFIED ON THE COASTAL AREA MAP. IMPAIRMENT SHALL INCLUDE: (I) THE IRREVERSIBLE MODIFICATION OF GEOLOGIC FORMS, THE DESTRUCTION OR REMOVAL OF VEGETATION, THE DESTRUCTION OR REMOVAL OF STRUCTURES, WHENEVER THE GEOLOGIC FORMS, VEGETATION OR STRUCTURES ARE SIGNIFICANT TO THE SCENIC QUALITY OF AN IDENTIFIED RESOURCE; AND (II) 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 QUALITY OF AN IDENTIFIED RESOURCE.

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 (see the appendix for a map and narrative).

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.

When considering a proposed action, agencies shall first determine whether the action could affect a scenic resource of statewide significance. This determination would involve:

- (a) a review of the coastal area map to ascertain if it shows an identified scenic resources which could be affected by the proposed action, and
- (b) a review of the types of activities proposed to determine if they would be likely to impair the scenic beauty of an identified resource.

Impairment would include:

- (a) 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 significant to the scenic quality of an identified resource; and
- (b) 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 quality of an identified resource.

The following siting and facility-related guidelines are to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly and consider both the scenic resource and the City's development objectives and priorities. Guidelines include:

- Siting structures and other development such as highways, power lines and signs, and back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore
- Clustering or orienting structures to retain views, save open space and provide visual organization to a development

- Incorporating sound, existing structures (especially historic buildings) into the overall development scheme
- Removing deteriorated and/or degrading elements
- Maintaining or restoring the original land form, except when changes screen unattractive elements and/or add appropriate interest
- Maintaining or adding vegetation to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of coastal waters
- Using appropriate materials, in addition to vegetation, to screen unattractive elements
- Using appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape

POLICY 25 PROTECT, RESTORE OR ENHANCE NATURAL AND MAN-MADE RESOURCES WHICH ARE NOT IDENTIFIED AS BEING OF STATEWIDE SIGNIFICANCE, BUT WHICH CONTRIBUTE TO THE OVERALL SCENIC QUALITY OF THE COASTAL AREA.

Explanation of Policy

When considering a proposed action which would not affect a scenic resource of Statewide significance, agencies shall ensure that the action will be undertaken so as to protect, restore or enhance the overall scenic quality of the coastal area. Activities which could impair or further degrade scenic quality are the same as those cited under the previous policy, i.e., modification of natural landforms, removal of vegetation, etc. However, the effects of these activities would not be considered as serious for the general coastal area as for significant scenic areas.

The siting and design guidelines listed under the previous policy will be considered for proposed actions in the general coastal area. More emphasis may need to be placed on removal of existing elements, especially those which degrade, and on addition of new elements or other changes which enhance. Removal of vegetation at key points to improve visual access to coastal waters is one such change which might be expected to enhance scenic quality.

Many of the sites within the LWRP area have significant views of the Hudson River and surrounding landscape. Because the topography in Newburgh steps up to form plateaus at varying elevations, some buildings as far west as Liberty Street have visual access to the river, while developments at the foot of Broadway and on the east side of Montgomery Street have nearly unobstructed views.

Indeed, the panoramic view of the Hudson River and the surrounding mountains is the main feature of the scenic environment in Newburgh. Variations in color take place as the wooded mountains go through their annual cycle of change. More elements are added to the picture in the summer, when yachts and small boats make their appearance on the river. The emergence of life, color and movement on a grand scale creates a panorama that is unique to Newburgh. The picture is further enhanced by the structure of the viewing positions from which it is observed. These positions produce channeled and glimpsed views that create an interesting variety in the landscape as well as broad panoramas. Much of the immediate waterfront is vacant former urban renewal land, with waterfront commercial and industrial operations and the deteriorated Newburgh Landing structures dominating. The abutment supporting the railroad tracks is dominant in some areas. Some old factory buildings remain. West of Water Street are the grassy slopes of Downing Vaux (Broadway) Park and other open spaces separating Water Street from the densely settled central area. The Key Bank building dominates the landscape at this level. The City skyline as a whole is varied and interspersed with large old trees. The view from the Hudson River walkway is also a significant resource for the City, allowing the public to achieve an unobstructed, eye-level interaction with the waterfront.

The existence of a large number of such onshore and offshore views has produced a high-quality scenic environment that is conducive to the furtherance of the economic growth and development of the City. It is recognized, however, that, insofar as it can lead to a deterioration of environmental quality, unchecked development can be self-defeating. It is therefore the purpose of the LWRP to establish policy mechanisms for the protection of the scenic environment.

Views and vistas in the City of Newburgh contribute to the overall scenic quality of the City and therefore must be protected. Every effort will be made to utilize these views in the development of an attractive and appealing environment. Any impairment of scenic resources which contribute to the overall scenic quality of the City, especially the views southeast to the Hudson Highlands, will be prevented where at all feasible.

A principal consideration that guides such a policy is that not all existing views can be preserved, because they are created by the absence of structures along the waterfront, a situation created through demolition under the Urban Renewal Program. Therefore, the most treasured of the scenic views must be identified and emphasis placed on preserving these while recognizing that others of lesser importance may be lost or altered. The views from the following positions have accordingly been identified for protection and are

currently protected through the City's Scenic Resources Protection Law, which established a View Preservation Overlay District (see the Appendix).

1. Grand and Washington Streets
2. View from Washington's Headquarters and surrounding park
3. Broadway and Colden Street
4. View from Grand and Second Streets
5. The view from the Public Library
6. View from First and Grand Streets
7. Montgomery Street and Leroy Place
8. Montgomery Street
9. Leroy Place and Park Place.

The View Preservation Overlay District roughly coincides with the LWRP boundary and regulates activities that may affect important vistas within the LWRP area. The district is intended to preserve and protect views of the Hudson River, Hudson Highlands and the east bank of the river from certain existing streets, parks and legally accessible public property. Under the provision of the Scenic Resources Protection Law, "No building, structure or permanent improvement shall be erected; have its exterior reconstructed, restored or structurally altered; or be 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 if within the Historic District and the Newburgh Waterfront Architectural Design District or the Planning Board if outside the Historic District has been obtained.

The City, with direction from the CAC and Architectural Review Commission, shall undertake amendments to the Scenic Resources Protection Law (View Preservation Overlay District) as part of the City's anticipated zoning code update. In accordance with the City's Master Plan and this LWRP, protected views should be redefined to give a stronger preference towards the pedestrian experience in the area and pedestrian views (i.e. views seen by people walking rather than driving). In addition, the Overlay District regulations shall reframe the protected views in a three dimensional manner and discuss the framing, by existing or proposed structures, of each protected view; diagrams illustrating both the vertical and horizontal viewplane should be included. Further, the City shall revisit the existing protected viewsheds and consider protecting following views to the river, many seen from the public right-of-way (i.e. sidewalk) to its View Preservation Overlay District:

1. Leroy Park (Orange County Veterans Memorial)
2. September 11, 2001 Memorial
3. Park Place Park
4. "Highland Terrace" (North Montgomery and Montgomery Streets)

5. Water Street (Old Newburgh Steam Mills)
6. South Street at and below Water Street
7. View of Newburgh Public Library
8. Public right-of-way adjacent to Calvary Church (Grand and South Streets)
9. Tyrone Crabb Park
10. 1837 Dutch Reformed Church from adjacent public right-of-way
11. St. George's Church view from adjacent public right-of-way
12. House of Prayer Church from adjacent public right-of-way
13. Ebenezer Baptist Church from adjacent public right-of-way
14. Washington's Headquarters to River Streets to shoreline
15. View from Bayview Terrace
16. View from mouth of Quassaick Creek
17. View from Hudson River Walkway

In addition, to enhance waterfront views, the City is pursuing funding opportunities which will be used for demolition of the discontinued City Incinerator smokestack to improve the visual quality along the waterfront.

The City will also seek to reduce the incidence of light pollution, which impairs the quality of the night sky and landscape, and results in wasteful use of energy. To mitigate the effects of light pollution, the City will explore the adoption of an ordinance for new commercial development and of regulations for residential lighting. Other approaches to consider are retrofitting City streetlights to high-efficiency, low-emitting downcast lighting and requiring new development to include the same in the site plan review process; and establishing maximum light levels for outdoor lighting applications.

(See Policies 1, 4, 12, 18)

AGRICULTURAL LANDS POLICY

POLICY 26 THE STATE COASTAL POLICY REGARDING THE CONSERVATION OF AGRICULTURAL LANDS IS NOT APPLICABLE TO THE CITY OF NEWBURGH.

ENERGY AND ICE MANAGEMENT POLICIES

POLICY 27 DECISIONS ON THE SITING AND CONSTRUCTION OF MAJOR ENERGY FACILITIES IN THE COASTAL AREA WILL BE BASED ON PUBLIC ENERGY NEEDS, COMPATIBILITY OF SUCH FACILITIES WITH THE ENVIRONMENT, AND THE FACILITY'S NEED FOR A SHOREFRONT LOCATION.

Explanation of Policy

The State expects to meet energy demands through a combination of conservation measures; traditional and alternative technologies, such as solar, wind and geothermal power; and use of various fuels including coal in greater proportion.

The directives for determining the public need for energy are contained primarily in Article V of the New York State Energy Law and Article VII of the Public Service Law. With respect to transmission lines and steam electric generating facilities, Article VII of the State's Public Service Law requires additional forecasts and establish the basis for determining compatibility of these facilities with the environment and the necessity for a coastal area location. With respect to electric generating facilities, environmental impacts associated with siting and construction will be considered by one or more State agencies or, if in existence, an energy siting board. The policies derived from these proceedings are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. The Act is used for the purposes of ensuring consistency with the State Coastal Management Program and this LWRP.

In consultation with the City of Newburgh, the Department of State will comment on the State Energy Office Policies and planning reports as might exist; present testimony for the record during relevant proceedings under Article V of the NYS Energy Law and Article VII of the Public Service Law; and use the State SEQR and DOS regulations to ensure that decisions on proposed energy facilities which would impact the coastal area are made consistent with the policies and purposes of the LWRP.

(See Policy 1E)

POLICY 28 ICE MANAGEMENT PRACTICES SHALL NOT DAMAGE SIGNIFICANT FISH AND WILDLIFE AND THEIR HABITATS, INCREASE SHORELINE EROSION OR FLOODING, OR INTERFERE WITH THE PRODUCTION OF HYDROELECTRIC POWER.

Explanation of Policy

Ice management practices are not performed by the City of Newburgh; however the City will help ensure that actions which may adversely affect fish and wildlife habitats or increase shoreline erosion or flooding will be avoided. An assessment of ice management practices will be made prior to any actions in an attempt to measure the potential effects such actions will have upon fish and wildlife habitats, flood levels, erosion and other natural features. If such actions are found to be unacceptable, the City will cooperate with agencies in any necessary mitigating action.

POLICY 29 **THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF ENERGY RESOURCES ON THE OUTER CONTINENTAL SHELF IS NOT APPLICABLE TO THE CITY OF NEWBURGH.**

WATER AND AIR RESOURCES POLICIES

POLICY 30 **MUNICIPAL, INDUSTRIAL, AND COMMERCIAL DISCHARGE OF POLLUTANTS, INCLUDING BUT NOT LIMITED TO, TOXIC AND HAZARDOUS SUBSTANCES, INTO COASTAL WATERS WILL CONFORM TO STATE AND NATIONAL WATER QUALITY STANDARDS.**

Explanation of Policy

Municipal, industrial and commercial discharges include not only "end-of-the pipe" discharges into surface and groundwater but also plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw material storage sites. Regulated industrial discharges are both those which directly empty into receiving coastal waters and those which pass through municipal treatment systems before reaching the State's waterways.

Such "end-of-pipe" discharges are monitored and regulated by the New York State Department of Environmental Conservation's (DEC) SPDES program (State Pollution Discharge Elimination System) as well as by federal law and the U.S. Environmental Protection Agency. Currently, periodic discharges resulting from combined sewer overflows have a significant negative impact on the City's waterfront area.

The municipal sewage treatment plant located along the Hudson River at Renwick Street is monitored to avoid the accidental discharge of pollutants. New developments within the LWRP area will be reviewed to ensure the adequacy of the existing water and sewer system to support them and necessary improvements and expansions will be made in areas where such systems are inadequate. The City shall provide the necessary improvements such as system enlargement and pipe replacement if such improvements will encourage new development and/or eliminate potential pollutant discharge. Priority will be given to water and sewer projects which will eliminate or prevent the discharge of pollutants into the Hudson River and Quassaick Creek.

All state and national water quality standards will be followed and enforced as necessary in the City of Newburgh.

(See Policies 2, 5, 7, 8, 18, 21, 33, 34, 35, 36, 37, 38, 39, 40)

POLICY 31 STATE COASTAL AREA POLICIES AND PURPOSES OF APPROVED LOCAL WATERFRONT REVITALIZATION PROGRAMS WILL BE CONSIDERED WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE MODIFYING WATER QUALITY STANDARDS; HOWEVER, THOSE WATERS ALREADY OVERBURDENED WITH CONTAMINANTS WILL BE RECOGNIZED AS BEING A DEVELOPMENT CONSTRAINT.

Explanation of Policy

Pursuant to the Federal Clean Water Act of 1977 (PL 95-217) the State has classified its coastal and other waters in accordance with considerations of best usage in the interest of the public and has adopted water quality standards for each class of waters. These classifications and standards are reviewed at least every three years for possible revision or amendment. Local Waterfront Revitalization Programs and State coastal management policies will be factored into the review process for coastal waters. However, such consideration shall not affect any water pollution control requirement establishment by the State pursuant to the Federal Clean Water Act.

The quality of water resources is defined in terms of chemical, physical, and biological characteristics, which, in turn, relate to the water's acceptability for its intended use. The New York State Department of Environmental Conservation (DEC) has classified all streams, lakes and rivers according to best use. The classifications are used to regulate water quality and enforce water quality standards.

The Hudson River is classified as "A" in the Newburgh area, meaning it can be a source of water supply for drinking, culinary or food processing purposes and any other uses, with treatment. The water quality classification for Quassaick Creek has been improved from a "D" classification to a "C" classification, meaning it is suitable for fishing and all other uses except as a source of water supply for drinking, culinary or food processing purposes.

POLICY 32 THE STATE COASTAL POLICY REGARDING THE USE OF ALTERNATIVE OR INNOVATIVE SANITARY WASTE SYSTEMS IN SMALL COMMUNITIES IS NOT APPLICABLE TO THE CITY OF NEWBURGH.

POLICY 33 BEST-MANAGEMENT PRACTICES WILL BE USED TO ENSURE THE CONTROL OF STORMWATER RUNOFF AND COMBINED SEWER OVERFLOWS DRAINING INTO COASTAL WATERS.

Explanation of Policy

Best-management practices include both structural and non-structural methods of preventing or reducing pollution caused by the discharge of stormwater runoff and combined sewer overflows. At present, structural approaches to controlling stormwater runoff (e.g. construction of retention basins) and combined sewer overflows (e.g. replacement of combined systems with separate sanitary and stormwater collection systems) are not economically feasible. Until funding for such projects becomes available, non-structural approaches (e.g. improved street cleaning, reduced use of road salt) will be encouraged, as will “green” practices such as green roofs, rain gardens and porous pavement.

Priority will be given to water and sewer improvements within the LWRP area if such improvements are necessary to reduce excessive stormwater runoff, eliminate the leakage or seepage of sewage into the environment and to eliminate the drainage of untreated discharge into the Hudson River and Quassaick Creek. The expansion and improvement of existing water and sewer service facilities to accommodate new development and revitalization activities will be implemented as necessary. 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. It is the City's policy that any newly installed systems have separate storm and sanitary sewer lines.

The use of best practices for stormwater management will include consideration of “green” strategies, which can be a cost-effective and environmentally beneficial approach to reducing stormwater and the problems of combined sewer overflow systems. Green infrastructure approaches seek to infiltrate or reuse stormwater, using soils and vegetation rather than traditional “hardscape” collection, conveyance and storage structures. The underlying goal is to keep rainwater out of the sewer system to reduce sewer overflow and to reduce the amount of untreated stormwater discharging to nearby water bodies which impair water quality. Methods employed include the use of green rooftops, trees and tree boxes, rain gardens, vegetated swales, pocket wetlands, infiltration planters, vegetated median strips, reforestation and protection and enhancement of riparian buffers and floodplains. Other related approaches include the use permeable pavement, rain barrels and cisterns.

During the process of site plan review, all new developments are required to assure the adequacy of existing systems and/or describe the actions that will be taken to ensure the control of stormwater runoff and sewage.

(See Policies 2, 5, 7, 8, 30)

POLICY 34 DISCHARGE OF WASTE MATERIALS INTO COASTAL WATERS FROM VESSELS WILL BE LIMITED SO AS TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATIONAL AREAS AND WATER SUPPLY AREAS.

Explanation of Policy

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the State's waters is regulated. Fish and wildlife habitats, waterfronts, and public water bodies need protection from contamination by vessel wastes. Specific effluent standards for marine toilets have been set by the Department of Environmental Conservation (6 NYCRR, Part 657). These standards will be followed by all agencies.

Under Newburgh's City Code, no person shall dump, drop, throw or place any vegetables, garbage, ashes, cinders, dross, rubbish, dirt, shells of oysters, clams or other fish or offal, or the carcass of any animal or filth, or sewage of any kind in the Hudson River, or any of the streams or ponds within the boundaries of the City. No person shall deposit any dead animal, manure, garbage, compost, vegetable or any putrescible matter in any spring, marsh, watercourse or reservoir, nor on or in the ground within 50 feet thereof, nor anywhere in such a manner that it can be washed by rain, melting snow or otherwise over the surface of the ground into any spring, marsh, watercourse or reservoir (Section 4-5). No person shall deposit any human excreta on the ground within 130 feet of any spring, marsh, watercourse or reservoir, nor anywhere in such a manner that it could be washed into the same.

A vessel waste pump-out station for small water craft will be studied and, if feasible, planned and constructed by the City at its waste water treatment site or other appropriate location (see Policy 7A). The exact location of such a facility, and the potential for additional pump-out stations, will depend on the demonstrated demand for the facility, as well as the location of other pump-out stations along the Hudson River. Any new or expanded marina facility providing additional boat slips will provide convenient on-site vessel waste pump-out facilities or demonstrate that readily available and accessible vessel waste pump-out capacity exists elsewhere in the NHMA to meet their needs. Receptacles for garbage, rubbish and other solid and liquid materials will be required in waterfront recreation areas, especially around the yacht club, Newburgh Landing, Washington Street boat launch and at any other new recreational sites. These receptacles must be large enough to adequately support peak usage. Section 4-6 of the local Code of Ordinances prohibits leaving, "any bait cans, dead bait, lunch box, garbage, refuse or paper" on or around the "City property of any waterway. Such waste shall be deposited in the receptacles provided by the City." This ordinance shall apply to all waterfront recreation areas. As part of the design plans for the river walkway, decorative receptacles have been selected and will be installed to prevent littering. Garbage receptacles will be installed in any new "high activity" areas within the LWRP area, as determined by City staff. Policies and procedures for the City's Department of Public Works will be written and disseminated to govern action steps in case of emergency spills.

(See Policies 2, 5, 7, 8, 18, 30, 33, 35, 36, 37, 38, 39, 40)

POLICY 35 **DREDGING AND DREDGE SPOIL DISPOSAL IN COASTAL WATERS WILL BE UNDERTAKEN IN A MANNER THAT MEETS EXISTING STATE DREDGING PERMIT REQUIREMENTS, AND PROTECTS SIGNIFICANT FISH AND WILDLIFE HABITATS, SCENIC RESOURCES, NATURAL PROTECTIVE FEATURES, IMPORTANT AGRICULTURAL LANDS, AND WETLANDS.**

Explanation of Policy

Dredging is often essential for waterfront revitalization and development, maintaining navigation channels at sufficient depths, pollutant removal and meeting other coastal management needs. Dredging projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands and other important coastal resources. These adverse effects can be minimized through careful designing and timing of the dredging operation and proper siting of the dredge spoil disposal site. Dredging permits will be granted if it has been satisfactorily demonstrated that these anticipated adverse effects have been reduced to levels which satisfy State dredging permit standards set forth in regulations developed pursuant to Environmental Conservation Law, (Articles 15, 24, 25 and 34), and are consistent with policies pertaining to the protection of coastal resources (State Coastal Management policies 7, 24, 15, 26 and 44). If dredging activities become necessary in connection with this program, all applicable standards and policies will be followed.

The City of Newburgh abides by all necessary standards set by the New York State Department of Environmental Conservation and the Army Corps of Engineers.

(See Policies 7, 15, 24, 44)

POLICY 36 **ACTIVITIES RELATED TO THE SHIPMENT AND STORAGE OF PETROLEUM AND OTHER HAZARDOUS MATERIALS WILL BE CONDUCTED IN A MANNER THAT WILL PREVENT OR AT LEAST MINIMIZE SPILLS INTO COASTAL WATERS; ALL PRACTICABLE EFFORTS WILL BE UNDERTAKEN TO EXPEDITE THE CLEANUP OF SUCH DISCHARGES; AND RESTITUTION FOR DAMAGES WILL BE REQUIRED WHEN THESE SPILLS OCCUR.**

POLICY 36A **STORAGE AREAS FOR PETROLEUM AND OTHER HAZARDOUS MATERIALS WILL BE BERMED TO PREVENT ON-SITE SPILLS FROM ENTERING COASTAL WATERS. NO MORE THAN 150 GALLONS OF SUCH MATERIALS SHALL BE KEPT IN TEMPORARY STORAGE FACILITIES AT ANY ONE TIME.**

(See Policies 30, 33, 34, 37, 39, 40)

Explanation of Policy

Hazardous wastes are unwanted by-products of manufacturing processes generally characterized as being flammable, corrosive, reactive or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (Section 27-0901 (3)) as "waste or combination of wastes which because of its quantity, concentration or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness: or (2) pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported or otherwise managed." A list of hazardous wastes as defined by DEC can be found in 6 NYCRR Part 371.

Clean-up of accidental discharges will be conducted according to State regulations and other applicable authoritative regulations. Restitution for damages would be the responsibility of the manufacturer or property owner. Local site plan review procedures will require all applicants developing nonresidential uses to identify any hazardous materials associated with the proposed use and disclose information on use, storage, treatment and disposal. Disclosure during the site plan review process will alert the City to any potential difficulties and will assure that shipment disposal and storage of hazardous wastes will be conducted in a conscientious manner.

POLICY 37 BEST MANAGEMENT PRACTICES WILL BE UTILIZED TO MINIMIZE THE NON-POINT DISCHARGE OF EXCESS NUTRIENTS, ORGANICS AND ERODED SOILS INTO COASTAL WATERS.

Explanation of Policy

Important fish and wildlife habitats, beaches, and public water supply areas need protection from contamination by non-point discharge of excess nutrients, organics and eroded soils. Actions to prevent or minimize erosion and the use of alternative (organic) methods of fertilization and pest control will greatly minimize discharge. The use of fertilizers and pest control chemicals will be discouraged within the LWRP area. Easements and permits will not be issued by the City for the use of watershed land and public water supply areas for any action that would require contamination containment or mitigation.

Non-structural erosion control methods, such as the planting of vegetation, and if necessary structural erosion control will be utilized to prevent the excessive discharge of eroded soil into local waters however, non-structural methods will be given priority.

Erosion and non-point source protection plans will be required for proposed construction to achieve the following objectives:

1. Natural ground contours will be followed as closely as possible.
2. Areas of steep slopes, where high cuts and fills may be required, will be avoided.
3. Extreme care will be exercised in areas adjacent to natural watercourses and in locating artificial drainageways so that their final gradient and resultant discharge velocity will not create additional erosion problems. Construction and post-construction runoff levels will be maintained at or below pre-construction levels at all times.
4. Natural protective vegetation will remain undisturbed, if at all possible, and restored when necessary.
5. The amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water will be limited.
6. The velocity of the runoff water on all areas subject to erosion will be reduced below that necessary to erode the materials.
7. A ground cover will be applied sufficient to restrain erosion on that portion of the disturbed area undergoing no further active disturbance.
8. Runoff from a site will be collected and detained in sediment basins to trap pollutants which would otherwise be transported from the site.
9. The angle for graded slopes and fills will be limited to an angle no greater than that which can be retained by vegetative cover. Other erosion control devices or structures will be used only where vegetation and grading are not sufficient to control erosion.
10. The length as well as the angle of graded slopes will be minimized to reduce the erosive velocity of runoff water.

Site plan review procedures and approval, for new or expanded industrial, energy, transportation, or commercial facilities will require appropriate Federal and State environmental permits where water quality is concerned.

(See Policies 30, 33, 34, 36, 39, 40)

POLICY 38 **THE QUALITY AND QUANTITY OF SURFACE WATER AND GROUNDWATER SUPPLIES, WILL BE CONSERVED AND PROTECTED, PARTICULARLY WHERE SUCH WATERS CONSTITUTE THE PRIMARY OR SOLE SOURCE OF WATER SUPPLY.**

Explanation of Policy

The City of Newburgh obtains its drinking water supply from reservoirs outside the City's limits within the Town of New Windsor. However, as a general principle, surface and groundwater are primary sources of drinking water and therefore must be protected.

Site plan review procedures and approval, and all other building permit approvals, will require appropriate Federal and State environmental permits where water quality is concerned.

(See Policies 30, 31, 33, 34, 36, 37, 39, 40)

POLICY 39 **THE TRANSPORT, STORAGE, TREATMENT AND DISPOSAL OF SOLID WASTES, PARTICULARLY HAZARDOUS WASTES, WITHIN COASTAL AREAS WILL BE CONDUCTED IN SUCH A MANNER SO AS TO PROTECT GROUNDWATER AND SURFACE WATER SUPPLIES, SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATION AREAS, IMPORTANT AGRICULTURAL LANDS AND SCENIC RESOURCES.**

Explanation of Policy

The definitions of terms "solid wastes" and "solid wastes management facilities" are taken from New York's Solid Waste Management Act (Environmental Conservation Law, Article 27). Solid wastes include sludges from air or water pollution control facilities, demolition and construction debris and industrial and commercial wastes.

Hazardous wastes are unwanted by-products of manufacturing processes generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (Section 27-0901 (3)) as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported or otherwise managed." A list of hazardous wastes is provided in 6 NYCRR Part 371.

Solid waste management facilities must meet the requirements contained in 6NYCRR Part 360 dated December 31, 1988.

Examples of solid waste management facilities include resource recovery facilities, sanitary landfills and solid waste reduction facilities. Although a fundamental problem associated with the disposal and treatment of solid wastes is the contamination of water resources, other related problems may include: filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

Nonresidential applicants must identify hazardous wastes and other solid wastes of unusual origin. Information as to the transport, storage, treatment and disposal of such wastes must be disclosed. The information disclosed by the developer must assure consistency with the LWRP policies and adequate environmentally conservative handling of wastes.

POLICY 39A DUMPING OF SOLID AND HAZARDOUS WASTES IN THE COASTAL WATERS OF THE CITY OF NEWBURGH IS PROHIBITED.

Explanation of Policy

Navigation and recreation activities in and around the coastal waters of the City of Newburgh are of economic importance and contribute to the quality of life of its residents.

Dumping of materials which create navigation hazards or pollute the water is detrimental to the quality of life, endanger the welfare of boaters, and adversely impact the operation of water dependent business industry.

(See Policies 30, 36, 40)

POLICY 40 EFFLUENT DISCHARGED FROM MAJOR STEAM ELECTRIC GENERATING AND INDUSTRIAL FACILITIES INTO COASTAL WATERS WILL NOT BE UNDULY INJURIOUS TO FISH AND WILDLIFE AND SHALL CONFORM TO STATE WATER QUALITY STANDARDS.

Explanation of Policy

The State Board of Electric Generation Siting and the Environment considers a number of factors when reviewing a proposed site for facility construction. One of these factors is that the facility not discharge any effluent that will be unduly injurious to the propagation and protection of fish and wildlife, the industrial development of the State, the public health and public enjoyment of the receiving waters. The effects of thermal discharges on water quality and aquatic organisms will be considered by the siting board when evaluating an applicant's request to construct a new steam electric generating facility.

(See Policies 30, 36, 37, 38, 39)

POLICY 41 LAND USE OR DEVELOPMENT IN THE COASTAL AREA WILL NOT CAUSE NATIONAL OR STATE AIR QUALITY STANDARDS TO BE VIOLATED.

Explanation of Policy

The State Coastal Management Program and the LWRP incorporate State Laws on air quality developed by the Department of Environmental Conservation and the Clean Air Act into their programs. Requirements set out in the Clean Air Act are the minimum air quality control requirements applicable to the coastal area.

Site plan review procedures and approval and other permit approvals for new or expanded industrial, energy, transportation, or commercial facilities will require appropriate Federal, State and County environmental approvals where air quality is concerned.

POLICY 42 COASTAL MANAGEMENT POLICIES WILL BE CONSIDERED IF THE STATE RECLASSIFIES LAND AREAS PURSUANT TO THE PREVENTION OF SIGNIFICANT DETERIORATION REGULATIONS OF THE FEDERAL CLEAN AIR ACT.

Explanation of Policy

The policies of the State and local coastal management programs concerning proposed land and water uses and the protection and preservation of special management areas will be taken into account prior to any action to change prevention of significant deterioration land classifications in coastal/waterfront regions or adjacent areas. In addition, the Department of State will provide the Department of Environmental Conservation with recommendations for proposed prevention of significant deterioration land classification designations based upon State and local coastal management programs.

POLICY 43 LAND USE OR DEVELOPMENT IN THE COASTAL AREA MUST NOT CAUSE THE GENERATION OF SIGNIFICANT AMOUNTS OF THE ACID RAIN PRECURSORS: NITRATES AND SULFATES.

Explanation of Policy

The New York Coastal Management Program incorporates the State's policies on acid rain into their program. As such, the Coastal Management Program will assist in the State's efforts to control acid rain. Efforts to control acid rain will enhance the continued viability of coastal fisheries, wildlife, agricultural, scenic and water resources.

The State-enforced Air Pollution Control Program covers this policy. Necessary State and Federal approvals concerning acid rain and the generation of nitrates and sulfates will be required where applicable. The disclosure of sulfate and nitrate generating activities will be required if applicable during Site Plan Review.

WETLANDS POLICY

POLICY 44 PRESERVE AND PROTECT TIDAL AND FRESHWATER WETLANDS AND PRESERVE THE BENEFITS DERIVED FROM THESE AREAS.

Explanation of Policy

Tidal wetlands include the following ecological zones: coastal fresh marsh; intertidal marsh; coastal shoals, bars and flats; littoral zone; high marsh or salt meadow; and formerly connected tidal wetlands. These tidal wetland areas are officially delineated on the Department of Environmental Conservation's Tidal Wetlands Inventory Map.

At the mouth of the Quassaick Creek is a tidal wetland which is stressed from various regulated and unregulated pollutant discharges. Regardless, the Creek continues to be used for recreational and fishing opportunities. The City recommends rehabilitation of the Creek, and supports activities to upgrade the water quality and ecological habitat in this vicinity. Ultimately, water quality improvements to the Creek, a tributary to the Hudson River, will help to improve water quality within the river itself.

Activities conducted within tidal or freshwater wetlands will be subject to applicable state and federal permit reviews and approvals.

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and semi-aquatic vegetation and other wetlands so defined in the NYS Freshwater Wetlands Act and the NYS Protection of Waters Act.

According to data contained on the National Wetland Inventory (NWI) map for Newburgh, two small isolated freshwater wetlands are located on the Steel Style site and adjoining the CSX rail right-of-way. These pockets have been formed in depressions or excavated areas where water seasonally floods or collects.

The benefits derived from the preservation of tidal and freshwater wetlands include but are not limited to:

- habitat for wildlife and fish, including a large portion of the State's commercial fin and shellfish varieties; and contribution to associated aquatic food chains;
- erosion, flood and storm control;
- natural pollution treatment;
- groundwater protection;
- recreational opportunities;
- educational and scientific opportunities; and
- aesthetic open space in many otherwise densely developed areas.

SECTION IV
PROPOSED LAND AND WATER USES
AND
PROPOSED PROJECTS

SECTION IV PROPOSED LAND AND WATER USES AND PROPOSED PROJECTS

A. LOCAL WATERFRONT REVITALIZATION PROGRAM

1. INTRODUCTION

The City of Newburgh's proposed projects, opportunities and recommendations are intended to enhance public use and enjoyment of the Newburgh Local Waterfront Revitalization Program (LWRP) area and Harbor Management Area (NHMA), maintain and enhance the environmental quality of these areas and strengthen the City's ability to manage them in the public interest. The recommended projects are also established to advance the City's policies, goals and objectives outlined in Section III.

The potential projects may be considered in terms of: 1) **public projects** conducted by the City, including projects involving development of public facilities on City-owned waterfront land and on the public trust waters and underwater lands of the Hudson River and Quassaick Creek; and 2) **private projects** conducted by private landowners and organizations, including projects providing public amenities and benefits on privately owned waterfront properties that may be redeveloped in accordance with City land-use plans and zoning regulations.

The potential projects may also be considered with regard to the time period that may be required for their implementation, including **short-term implementation** and **long-term implementation** projects. Implementation of certain projects, for example, including those on City-owned properties, may begin in a relatively short period of time pending the availability of funds. Other public projects on City-owned properties will require longer periods of time to implement because they are expected to require stimulation from private redevelopment projects that may be pursued on nearby properties. Planning for all public projects, however, can be initiated in the short-term and potential sources of implementation funds identified and pursued. Other projects for long-term implementation include private projects on privately owned properties that will require redevelopment of those properties in order to be achieved.

For the purpose of identifying opportunity areas for project development, the LWRP establishes seven waterfront planning units within the LWRP area (See Figure 26). The LWRP identifies project opportunities and recommendations with respect to each of these planning units. (See Figures 28-37 at the end of Section IV).

The planning units are described below.



LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 26: LWRP PLANNING UNITS

a. North Waterfront Planning Unit

This planning unit is bounded on the north by the City line and extends south to the Regal Bag property (see Figure 28). The entire shoreline of approximately linear 2,000 feet is privately owned. The principal waterfront uses are the water-dependent Newburgh Yacht Club, and the Pier-Loun residential condominium development. (See photo 1 in Figure 33.) These waterfront uses are identified as opportunity areas for private projects to enhance the NHMA, including projects to improve water quality through stormwater management initiatives.

b. South Street Planning Unit

The South Street Planning Unit extends south from the Newburgh Yacht Club for approximately 2,800 linear feet to and including the City's South Street right-of-way which extends into the NHMA (see Figure 29). With the exception of the right-of-way, all waterfront land in this planning unit is privately owned. The right-of-way is identified as a project opportunity area for enhanced public access to the NHMA and the creation of South Street Park is in the planning stage there. The planning unit also includes the waterfront property known as the Regal Bag property and the waterfront land between this property and the right-of-way. (See photos 2 and 3 in Figures 33 and 34.) These properties are identified as opportunity areas for waterfront redevelopment.

c. Front Street Planning Unit

This planning unit encompasses the NHMA and waterfront between the South Street right-of-way on the north and Carpenter Street on the south, a distance of about 1,300 feet (see Figure 30). Included are several opportunity areas identified for public projects to enhance public use and enjoyment of the NHMA. The City's existing riverfront walkway is located within this planning unit. Other notable facilities include the City's Newburgh Landing park; two of the three commercial marinas (Torches on the Hudson and Front Street marinas); waterfront restaurants along Front Street; and docks for Hudson River excursion vessels. (See photos 3, 4 and 5, in Figures 34 and 35.)

d. Washington Street Planning Unit

The Washington Street Planning Unit includes that portion of the NHMA and waterfront between Carpenter Street and Washington Street and covers a distance of about 1,800 linear feet along the waterfront (see Figure 30). This planning unit supports recreational and commercial water-dependent uses and includes several opportunity areas identified

for public and private projects to enhance the NHMA and waterfront, including projects for waterfront redevelopment. Prominent features include the City's First Street Fishing Pier; the Newburgh-Beacon passenger ferry terminal; the property known as the Gull Harbour - American Dock property including the Gull Harbour Marina; and the Newburgh boat launching ramp. (See photos 4, 5, 6 and 7, in Figures 34 through 36.)

e. South Water Street Planning Unit

The South Water Street Planning Unit includes the water and waterfront areas south of Washington Street, including the Consolidated Iron and Metal redevelopment area, the City-owned incinerator and water pollution control plant sites, the Ward Brothers Memorial Rowing Park and undeveloped privately owned waterfront property south of and adjoining the park (See Figure 31 and photos 7, 8 and 9, in Figures 36 and 37.) The total length of the shoreline is about 2,600 linear feet. This planning unit includes several opportunity areas identified for public and private projects to enhance the NHMA and waterfront, including projects for waterfront redevelopment and projects to enhance public use and enjoyment of the NHMA.

f. South Waterfront Planning Unit

This planning unit encompasses the last remaining section of the City's industrial waterfront and extends for a distance of about 1,750 linear feet along the shoreline from the South Water Street Planning Unit to the mouth of Quassaick Creek (see Figure 32). Included is the privately owned property known as the Steel-Style Shipyard property identified as an opportunity area for waterfront redevelopment. (See photo 10 in Figure 37.)

g. Quassaick Creek Planning Unit

This is the southernmost planning unit in the NHMA and consists of Quassaick Creek and its watershed within the bounds of the City's Waterfront Area (see Figure 36). The creek flows over a distance of about 6,600 feet within the Waterfront Area. (See photo 10 in Figure 37.) The creek and its watershed are identified as opportunity areas for public and private projects to enhance the environmental quality of the NHMA and provide public access to the NHMA.

2. PROPOSED LAND AND WATER USES

The proposed land and water uses recommended for the City of Newburgh's LWRP area are reflected in the City's 2011 Future Land Use Plan, which was adopted as an addendum to the City's 2008 "*Plan-It Newburgh*" Sustainable Master Plan. The Master Plan and Future Land Use Plan support land uses that give preference to water dependent and water enhanced uses within the waterfront area, which is a major tenet of this LWRP. The Future Land Use Plan geographically illustrates general future land uses based on the policies stated in the City's Master Plan and reinforced by this LWRP. The Future Land Use Plan is illustrated in Figure 27. The proposed future land uses for the LWRP area reflect and implement the policies contained in Section III of the LWRP, the 2008 Master Plan, and the 2011 Future Land Use Plan.

The Future Land Use Plan is not intended to describe the proposed land use pattern on a parcel-by-parcel basis; rather, it is a broad expression of the range of uses intended for the LWRP area and the City as a whole. Ultimately, the Future Land Use Plan constitutes the regulatory framework upon which the City's zoning regulations are drafted, amended and adopted.

Implementation of the Future Land Use Plan necessitates certain revisions to the current zoning code. As discussed in Section II of this LWRP, the City is in the process of a city-wide update to its Zoning Code. Proposed zoning changes seek to implement the recommendations contained in the 2008 "*Plan-It Newburgh*" Sustainable Master Plan and the 2011 City of Newburgh Future Land Use Plan. As part of the amendments to the Zoning Code, new zoning will be adopted within the City's LWRP area that seek to provide for the redevelopment and adaptive reuse of the City's waterfront as well as those neighborhoods proximate thereto.

The Future Land Use Plan is based on the overall goal of accommodating future development, as well as fostering the conversion of current uses to those that will promote a desirable and balanced land use pattern that meets the long-term needs of City residents. The Future Land Use Plan will also promote economic stability through targeted and well-planned land use. Specific goals¹ for the LWRP area include the following:

- Provide convenient and attractive public access to the waterfront including improved access to Quassaick Creek.
- Revitalize underutilized and deteriorated buildings and redevelop vacant land.
- Embody “smart-growth” principles such as creating a range of housing opportunities and choices, creating walkable neighborhoods, providing a mix of land uses and preserving open space.
- Encourage new water-dependent and water-enhanced development.
- Improve public infrastructure and utilities to adequately support new development and redevelopment in the area.
- Promote façade and streetscape improvements that reflect Newburgh’s urban scale and historic character.
- Preserve and enhance existing public views of the Hudson River.
- Promote sustainable planning practices and green building design.
- Promote re-use and redevelopment of deteriorated and vacant buildings, rather than tearing them down, to promote the conserving of resources.

Anticipated future uses within the LWRP area are described below under six general land use categories.

The LWRP supports the proposed designation of thematic corridors from the Hudson riverfront up into the City. In this approach, Washington Street will be cultivated and developed for its historic destinations, Broadway for its commercial destinations, Second Street for its cultural resources (Newburgh Free Library, Heritage Center), South Street for its residential neighborhood destinations, Williams Street for its connection to commercial and industrial destinations and Quassaick Creek for its environmental and scenic destinations.

a. Park/Open Space (Waterfront Walkway/Greenway)

As Figure 27 illustrates, the Future Land Use Plan recommends that public access and open space be provided along the Hudson River waterfront (Waterfront Buffer/Walkway) as well as along Quassaick Creek and Muchattoes Lake (Greenway). The provision of new quality waterfront public access and the enhancement of existing public access is a key goal of the LWRP. The following provides a description of potential future open space

¹ Please note that these goals are not listed in order of priority of importance.

and recreational uses along the waterfront (Area C) and in the upland portions of the LWRP area (Areas A and B):

Waterfront Open Space and Recreation - Future public access proposals include the creation of improved open spaces and amenities, linked by a continuous walkway along the riverfront (see below). Existing important waterfront public access includes Newburgh Landing Park, the existing pedestrian walkway, the First Street Fishing Pier, Ward Brothers Memorial Rowing Park, and the Washington Street Boat Launch area. Future proposed improvements and additions include an upgrade to Newburgh Landing Park, expansion of the public walkway, renovation of riverfront bulkheads and the development of additional public and private recreation areas and other amenities. Specific proposals are described below under Proposed Projects.

New park and open space areas designed to enhance public access to the NHMA may be established on privately owned properties in coordination with redevelopment of those properties according to any future development plans. Park and open space projects may also include projects to enhance existing City-owned waterfront properties, to provide safe and enjoyable recreational experiences for City residents and visitors, including projects to enhance the utility of those spaces for accommodating special water and waterfront events.

Upland Open Space and Recreation - In addition, Broadway Park (Downing Vaux Park) is located at the foot of Broadway and is a major visual connection to the Hudson River. As noted in Section II, a historic/cultural landscape report is being prepared with the goal of restoring it as a unique public open space. The park can also be an important tourist attraction, as its designers, Calvert Vaux and Frederick Law Olmsted, designed New York City's Central Park and other major parks in the U.S. Other key future amenities within the LWRP area include the passive estuary preserve and recreation trail along Quassaick Creek (see below), creating opportunities to establish a pedestrian link in the Greenway Trail System connecting Newburgh with the Town of Windsor, and the Snake Hill Trail being developed by Scenic Hudson.

Greenway and Waterfront Walkway - The Greenway and Waterfront Walkway shown on the Future Land Use Map represent an opportunity to create an interconnected system of open space on the riverfront to recreational sites throughout the City and region through the use of paths, sidewalks and trails. The Master Plan expressly supports this goal, along with improving the "quality of life for all City residents by maintaining an

equitable distribution of parks and open spaces, and interconnectedness of same (pg. 74)".

The thin green line represents a Greenway trail network, which will connect Newburgh with the Town of New Windsor to the south and the Town of Newburgh to the north as part of the larger Hudson River Valley Greenway Trail System (HRGWT). The Greenway will also connect the Snake Hill Trail being developed by Scenic Hudson. To protect and enhance sensitive watershed areas, the City shall explore the feasibility of public easements for trail connections around Muchattoes Lake as well as along Quassaick Creek. Partnering with agencies such as the Hudson River Valley Greenway, Orange County Land Trust and Scenic Hudson will help to advance park linkages and trail connectivity (Master Plan, pg. 75).

The thicker green hashed line located along the waterfront represents the proposed public walkway along the Hudson riverfront. The waterfront walkway would also connect to the Greenway to the north and south. The continuous waterfront walkway needs to include shared-use paths (including paved walkways and boardwalks) for walking, bicycling, jogging, wheelchair use, and other non-motorized uses, to the extent they can be implemented in a safe and environmentally sound manner. These actions are consistent with the Master Plan's goal of providing ample active recreational opportunities through trail connections, increased pedestrian amenities and bike paths aimed to promote healthier lifestyles (pg. 37).

b. Mixed Use with Residential

The Land Use Plan recommends a mix of land uses for most of the LWRP area. Within this mixed use area, a variety of residential, commercial and office, open space and recreational, and cultural and institutional uses are proposed. The intent is to promote traditional urban/city neighborhoods that have a mix of uses; are pedestrian oriented; and provide for a diverse public to live, learn, work and play. Further, by promoting mixed-use development in this area, the City intends to re-establish a physical and walkable connection between the waterfront and the Broadway corridor.

The central portion of the LWRP area – approximately eight blocks bounded by Liberty Street to the west, South Street to the north, Washington Street to the south and Colden Street to the east – includes a broad mix of uses that incorporate governmental, institutional, office and residential use. Mixed in among residential uses, governmental and administrative services serving the City, as well as many administrative offices serving eastern Orange County, are concentrated in this location. City Hall, the police and fire

departments, the City Courthouse, a U.S. Post Office, the City Library, Orange County Community College Campus including the former YMCA building and other facilities are found here. In addition, various social service agencies are located in the Civic Center, many of them housed in historic, formerly residential buildings. In addition to the central portion of the LWRP, a potential future mixed-use area is Lake Street Plaza, an office/retail center in the area just east of Muchattoes Lake. This center contains a number of vacant storefronts and is in need of redevelopment.

In this mixed-use area, there is a significant opportunity to promote the re/development of a traditional urban/city neighborhood that has a mix of uses; is pedestrian oriented; and provides for a diverse public to live, learn, work and play. An increase in mixed-use development will promote an urban lifestyle typical of thriving urban areas where residences, related commercial and entertainment uses support one another. Further, by promoting mixed-use development and increasing residential density in this area, the City will re-establish a physical and walkable connection between the Broadway corridor and the waterfront. This area needs new underlying development controls that spur vitality and potential waterfront development. Commercial development will ease the tax burden on residential property owners.

The Future Land Use Plan recommends a continuation of community facilities, social services, transportation systems, general professional offices and existing residential uses within this key area. Representative uses anticipated in this land use area include health services, legal services, educational and social services, benevolent membership organizations, financial, insurance and real estate services, professional offices, urban public spaces and public administration. The adaptive reuse of historic residential buildings, the infill of vacant and underutilized parcels for mixed/residential uses and the rehabilitation of substandard housing for these types of uses is encouraged as a means of preserving the structure, as well as conserving building materials and other natural resources. Mixed-use residential development is also encouraged in this area.

South of Spring Street and to the east of Liberty Street, the Future Land Use Plan also calls for mixed-use development. Land use in this area consists of ground-floor retail, office and service commercial uses with residential uses in the upper stories of existing buildings. The Future Land Use Plan encourages the continued conversion of vacant ground floor space to a mix of retail, office and service commercial uses. To promote visitor activity, restaurants, boutiques, artisan shops, antique shops and art galleries should be encouraged. Retail, personal and business services and office uses are also allowed.

c. Residential

The Future Land Use Plan recommends the continuation of existing residential uses in the areas shown in yellow on the map and encourages in-fill development of vacant or under-utilized residential parcels and rehabilitation of sub-standard housing in these areas, as follows:

1-4 Family - Residential uses are encouraged throughout the entire mixed-use land use area; however, the areas shown in yellow on Figure 27 are designated as predominantly single-use residential land use areas. The northern residential area is currently comprised of single-family residential uses, with a small area of multi-family development located in the northeastern portion of the area. In addition the southern portion of the LWRP area to the north of Bay View (the Washington Heights neighborhood) also largely consists of 104 family units.

5+ Family - There are several higher-density residential areas within the LWRP area. These areas consist of a concentration of multifamily uses in older structures, multifamily units, garden apartment complexes and senior housing buildings. Currently, two multifamily housing complexes are located in the immediate waterfront area: Ferry Crossing and Pier-Loun Point. It is anticipated that the current use of these properties will continue. In addition, Lake Street Apartments, a large, privately owned multifamily rental complex built in the 1970s, is expected to remain in the area around Lake Muchattoes. The mix of existing higher-density housing within the LWRP area, combined with new apartment construction proposed by the Waterfront Redevelopment Project, will help ensure that the waterfront area becomes an active, mixed-use neighborhood with residents in easy walking distance of retail, open space, entertainment and cultural facilities.

There are a number of public and private low- and moderate-income housing facilities in the LWRP area. This LWRP, and the City's Sustainable Master Plan, support the preservation of affordable housing within the City of Newburgh, via an affordable housing ordinance to establish a mechanism for creating and supporting permanently affordable housing opportunities. The Master Plan outlines a goal of approximately 10% of each Census tract in the City containing permanent affordable and special needs housing opportunities by 2020. While there are no plans to adopt a formal affordable housing ordinance in the immediate future, these affordable housing goals are among the key elements of the Master Plan, and the City will be exploring methods to ensure affordable housing opportunities in the coming years.

d. Planned Waterfront Development

The Future Land Use Plan identifies the majority of waterfront lands east of Rev. Dr. Martin Luther King Jr. Boulevard and the CSX railroad right-of-way as Planned Waterfront Development. This area, shown in pink on Figure 27, is intended to be developed for a combination of water-dependent and water-enhanced uses. Such uses include retail, entertainment, dining, lodging, waterfront-related recreational uses, conference space and housing.

Construction of water-dependent marine and publicly accessible riverfront recreational uses is integral to the development of the waterfront commercial land use area. Water-dependent marine and recreational uses include, but are not limited to: marinas; piers; boat docks; boatyards for repair, storage, and sale of marine vessels; yacht clubs; and similar facilities, as well as a riverfront walkway paralleling the Hudson River.

e. Institutional

As illustrated on Figure 27, areas in blue are designated as institutional land use areas. These areas include Mount Saint Mary's College, Orange County Community College, the Water Pollution Control Plant, and Washington's Headquarters, a National Historic Landmark, as well as other sites listed on the National Register. These properties are key cultural/institutional anchors within the LWRP Area and provide opportunities for linkages between other important cultural/institutional uses within the LWRP area such as, the East End Historic District and the Liberty/Grand Street Heritage Corridor.

f. Industrial/Commercial/Recreational

The southern portion of the waterfront area is developed with existing or former water-dependant uses, including the City of Newburgh wastewater treatment plant, Steel Style Shipyard, and the City incinerator site. It is anticipated that the City may expand the wastewater treatment plant into the City incinerator site. While this area has traditionally been used for water-dependent industrial uses, mixed-use redevelopment, including recreational and commercial uses, of vacant and under-utilized parcels in this area is encouraged in the future. Opportunities for increased open space and public access are also encouraged.

The Future Land Use Plan also identifies significant gateways into the City and to certain destinations within the City (i.e. the waterfront), five of which are located within the LWRP area.

These gateways have been identified as areas that can enhance Newburgh's "front doors" by not only constructing improvements in the areas seen by the most people, but by doing so in a way that provides a unique identity and sense of place for each location and the edges of the City. Enhancing these gateways will provide a framework to orient visitors through wayfinding signage, link Lower Broadway to the waterfront and adjacent neighborhoods, increase greenspace/landscaping, and establish a strong sense of uniqueness and vitality.

Finally, the Future Land Use Plan recognizes that the City would benefit greatly from an increase in public plazas, which provide leisure, aesthetic value and opportunities for social interaction. The potential to integrate plazas into the urban fabric exists both in private and public projects. In addition to slowing traffic, public squares would make the surrounding land more valuable for development. Reduced parking requirements or density bonuses listed in the Master Plan, are incentives that can be offered to create these spaces for private developers (pg. 66). Two potential public plazas are located within the LWRP area. Clinton Square at Water Street and Fourth Street is recommended for consideration as a public plaza. Before urban renewal, Clinton Square was one of the City's vibrant centers. In addition to Clinton Square, the area around Water Street and First Street offers an opportunity for a civic square that could tie together the surrounding institutional uses.

3. PROPOSED WATER-DEPENDENT AND WATER-ENHANCED USES

Proposed water-dependent and water-enhanced uses include the expansion of the riverfront bikeway and walkway southward to Quassaick Creek and northward to the Regal Bag building; possible relocated rowing facilities between Washington Street and South William Street; and additional parks, river viewing and picnic areas linked to the bikeway and walkway.

4. PROPOSED PROJECTS

The following section describes a set of site-specific and programmatic projects that will be or are being implemented to improve the City's LWRP area. All projects are intended to be consistent with the Sustainable Master Plan and to embody "smart growth" principles including the recognition of Sea Level Rise and utilization of mapping tools to plan accordingly. This section is not intended to anticipate all projects that would further the goals of the LWRP; future projects may develop that could also improve the LWRP area. The criteria for including specific projects in this list were developed by the Newburgh Waterfront Advisory Committee (WAC), which was, in 2013, incorporated into the Conservation Advisory Council (CAC).

a. Broadway – Waterfront Link

Broadway not only provides spectacular views to the Hudson River, it serves as the main east-west link from the inland areas to the waterfront. The City seeks to emphasize the importance of Broadway as a potential transit route, providing opportunities for bus rapid transit connections between Stewart International Airport and the Newburgh-Beacon ferry service. This role as a key connection to the waterfront is reflected in a series of proposals developed during a public charrette process led by Duany Plater-Zyberk & Company in 2007. The proposals developed during the charrette process seek to enhance Broadway’s visual and physical link to the river. Specific proposals include:

- Development of a series of landscaped open spaces including the “greening” of Broadway between Grand and Colden Streets, reconfiguring of Broadway Park (Downing Vaux Park) and construction of a sloping park to the waterfront.
- Incorporation of uniform signage and markers, street signs and street amenities along lower Broadway, and the creation of safe and attractive walkways between Broadway and the waterfront, to tie together the areas east and west of the railroad tracks.
- Reduction of vehicular traveling speeds on Rev. Dr. Martin Luther King Jr. Boulevard
- Provision of sidewalks along Renwick Street, Washington Street, First Street and Third Street between Rev. Dr. Martin Luther King Jr. Boulevard and the waterfront.
- Provision of lights in the tunnels under the railroad tracks.

b. Newburgh Landing Park and Dock

Continued redevelopment of the Newburgh Landing Park will occur with new landscape treatment of the park. Improvements to commercial and recreational docking facilities, including potential extension of the public pier to accommodate more and larger vessels at the Landing, are also being considered. The initial plans for the park’s docking facilities called for a larger structure than was actually built, resulting in the potential plans to expand the public pier. However, such expansion should be based on the current usage of the dock and the anticipated demand by larger vessels. Any expansion will not unreasonably conflict with navigation and other beneficial uses of the NHMA, and must be consistent with all applicable regulatory requirements.

Opportunities for permanent improvements to provide an extended berthing face to serve more and larger vessels than currently use the dock should be properly evaluated and pursued to the extent feasible, consistent with the riparian rights of the owners of adjoining properties. Use of the dock by excursion vessels and all other craft, including vessels participating in special events, should be in accordance with all necessary advance approvals by the City to reduce potential conflicts for use of the dock and to otherwise ensure its continued beneficial use.

c. Front Street Improvement

Front Street now provides direct access to recently developed businesses. At this time, Front Street extends only from South Street to just south of First Street. In the long term, the City hopes to extend Front Street to provide additional vehicular and pedestrian access to waterfront parcels to the south, toward River Street. As properties are redeveloped in this area, project plans should include provisions for the extension of Front Street. The City also intends to make necessary improvements to relieve traffic congestion and parking problems in this area.

d. Hudson River Walkway (Waterfront Walkway)

Currently, there is a walkway extending southward from the South Street terminus to 26 Front Street. Conceptual plans propose to extend the walkway northward to connect to the Newburgh Beacon Bridge and southward past the City water treatment plant. Such a walkway will increase the public's access to a larger portion of the riverfront, as well as promote greater pedestrian movement to more shops and restaurants. The walkway should be maintained, repaired and enhanced as needed to provide continued opportunities for safe and enjoyable public use, including opportunities for scenic views of the NHMA and pedestrian access to waterfront activity areas. Related opportunities for public access include establishment of launching and landing facilities for hand-carried vessels such as canoes or kayaks and provision of scenic overlook structures and other amenities.

All available opportunities should be evaluated and pursued, to the extent feasible, for the purpose of: a) extending the walkway to the north of the South Street right-of-way to connect northward to the Newburgh Beacon Bridge; b) extending the walkway to the south of Carpenter Street to Washington Street in coordination with any future redevelopment of affected properties; and c) enhancing connections between the walkway and other parts of the City, including Downtown Newburgh.

Extension of the riverfront walkway should be conducted in coordination with any future redevelopment of affected properties and in a manner that avoids potential conflicts between pedestrian use of the waterfront and appropriate commercial water-dependent uses.

The expansion and enhancement of the Hudson River Walkway and Quassaick Creek Trail (see below) may be implemented in coordination with waterfront redevelopment to provide safe and enjoyable connections between waterfront activity areas and other parts of the city, including Downtown Newburgh. These projects may also be implemented in coordination with State and regional organizations such as Hudson River Valley Greenway, which has designated two existing trails in the City of Newburgh as greenway trails: The Frederick Douglass Trail and the Tale of Two Cities Trail. Hudson River Valley Greenway has also identified two potential greenway trails in the City: one running from the Ulster County line through Newburgh utilizing the proposed Quassaick Creek Estuary Preserve and Trail and land made available through waterfront development; and a trail linking the Quassaick Creek Trail with Storm King State Park.

e. Shoreline Stabilization

The City completed the construction of approximately 1,700 linear feet of bulkhead along Newburgh Landing and the two adjacent City-owned parcels, except for the area abutting Newburgh Landing Park. This stabilization will protect the City's investment in the river walkway. A condition assessment of Newburgh's shoreline stabilization structures conducted as part of this LWRP process indicated that most of the structures are in fair to good condition and do not require intervention to ensure adequate protection to the Hudson River shoreline. Some areas may be in need of further investigation or minor repair, but in general the shoreline structures are fulfilling their function of shoreline protection. In general, removal of vegetation or established debris should be undertaken with caution, as their removal could cause the structures to become unstable. See Appendix B for the full condition assessment. The City will continue to pursue private/public investment, as necessary, to protect the land area immediately adjacent to the river from erosion.

f. The Foundry at Washington Park and Surrounding Area

The renovation of the Foundry building for residential development will result in the construction of approximately 100 new housing units. A total of 62 units were completed in the initial phases of renovation; an additional 59 units are expected to be completed

during later phases. With these residential units, the Foundry will help to stabilize the neighborhood and provide a local market for new businesses. Likewise, the stabilization of this portion of Liberty Street will help connect the Washington Heights neighborhood with the lower portion of Liberty Street.

g. Quassaick Creek Trail

The City will work to restore the ecological habitat along the Quassaick Creek. Such activities could be linked to scientific/educational research. The Quassaick Creek Trail and its restoration will serve as a tool to teach students and the community about the unique ecological habitat of the area. Institutions such as the Hudson River Interpretive Center in Beacon, NY, SUNY New Paltz and the Newburgh Enlarged School District will all be invited to participate in the learning opportunity. The City's goal is to create a passive waterfront trail along the Creek for nature watching and trail walking, which will extend to Snake Hill. The trail will ultimately connect to the Hudson River walkway.

A watershed management plan including goals and initiatives to protect and restore the natural resources and water quality of the creek and provide appropriate recreational use of the creek and watershed should be prepared and implemented in coordination with the Town of New Windsor, concerned organizations and private landowners.

Consistent with the watershed management plan, efforts to restore and enhance the creek's riparian ecosystem, including ecosystem water quality, fish and wildlife habitat and scenic quality, should be supported, including: a) removal of accumulated debris; b) selective removal of vegetation to enhance visual access to the creek and river; c) restoration of natural riparian vegetation; d) dredging to improve stream flow and enhance fisheries habitat; and e) application of nonstructural measures to reduce runoff and non-point source pollution.

Recreational use of the creek and watershed consistent with natural resource conditions and values should be supported, including fishing, hiking and nature observation. Establishment of a nature trail providing recreational and educational benefits and linked with public waterfront areas and other areas of the city should also be supported.

h. Ward Brothers Memorial Rowing Park

A parcel of land has been designated as the "Ward Brothers Memorial Rowing Park" for use by The Newburgh Rowing Club. The City will pursue opportunities to continue to improve the park for public access, including linking it to the Hudson River walkway. The

City is currently reviewing a possible relocation of the Rowing Club, due to the likely expansion of the adjacent sewage treatment plant. This park is a significant asset for the City that should be included in the future redevelopment of the waterfront. Any relocation of the rowing park should consider factors such as the ease of land access for the rowing club and other non-motorized boats, and the proximity of motorized vehicles.

Operation, maintenance and enhancement of the rowing park site should be in accordance with a waterfront facilities plan prepared and implemented by the City that provides for safe and efficient pedestrian and vehicle linkages among the site, other public waterfront areas and other areas of the City.

All available opportunities for enhancing the public water-access facilities and services available at the rowing park should be evaluated and may be pursued to the extent feasible, including: a) enhancement of existing rowing facilities; b) relocation of rowing facilities to another suitable site adjoining the NHMA in coordination with future waterfront redevelopment; c) establishment of a riverfront beach recreation area with supporting facilities and amenities, including a nourished and appropriately stabilized beach area for swimming and other beach recreation activities; and d) provision of scenic overlook structures and other amenities for enjoyment of river views.

In addition to provision of upland storage facilities, improvements to the rowing park and any other rowing facilities should include the construction of low-profile launching and landing floats anchored by subsurface moorings (to reduce the interference that may be caused by anchor piles during the launching and transporting of rowing shells), and the designation and appropriate marking of training and competitive rowing courses in the NHMA.

Any relocation of trailered boat launching facilities to another site adjoining the NHMA should not result in any significant reduction of currently available boat launching opportunities.

i. Regal Bag Company

The Regal Bag Building is situated on a large 5.75-acre waterfront property with direct frontage along the Hudson River. As viewed from the river, the tallest portions of the main building are six stories high. The primary buildings were constructed in 1844 by the Newburgh Steam Mills, a cotton cloth mill. In the late 19th century, the building was converted by Caldwell Lawnmower Company to a lawnmower production factory.

The City's goal is to employ adaptive reuse to restore this underutilized building with a variety of uses, including residential, commercial, and institutional uses. The City has adopted various tax abatements which are intended to expedite restoration of the building.

j. Incinerator

The City currently owns property that houses a former incinerator. To improve the visual environment along the waterfront, the City is exploring funding opportunities which will be used to remove the existing smokestack associated with the incinerator in the near future and remove the entire defunct incinerator thereafter. In addition, the LWRP anticipates the continuation of the Hudson River walkway through this property.

The incinerator site should be considered an opportunity area for development of a waterfront park of the City providing opportunities for water-dependent recreational use, including visual and physical access to the NHMA and special events that increase public use and enjoyment of the NHMA and enhance the City's culture and quality of life. All available opportunities for reuse of the site to accommodate public access to the NHMA should be properly evaluated and may be pursued to the extent feasible, including: a) extension of the riverfront walkway; b) establishment of launching facilities for trailered boats; c) establishment of facilities for launching and landing of hand-carried vessels; and d) provision of scenic overlook structures and other amenities for enjoyment of river views. Safe and efficient pedestrian linkages between any public water-access facilities that may be established on this site and other public waterfront areas and areas of the City should be provided. Operation, maintenance and enhancement of any public facilities for water access that may be established on this site should be in accordance with a waterfront park plan prepared and implemented by the City.

k. Steel Style (Port of Newburgh)

This is a former privately owned industrial property that is underutilized although the owners is exploring options to develop the Port of Newburgh. The property is located to the east of the Washington Heights neighborhood, west of the Hudson River and north of Quassaick Creek. Views of the property are largely unobstructed along Bay View Terrace. The City intends to explore opportunities to have this property redeveloped for a water-dependent or water-enhanced use that would not result in adverse environmental impacts to the Washington Heights neighborhood. Because of the former industrial nature of the project site, it is possible that some level of contamination may exist on-

site. The City would encourage Brownfields redevelopment, as the site's large size, existing piers and adjacency to the river make it a potential candidate for redevelopment. The Hudson River walkway would continue along this property, and the Quassaick Creek Trail would begin on this property at the Hudson River shoreline. Clearing and removing junk and debris starting with hazardous and unsafe materials from the lands adjacent to the future Quassaick Trail is expected in the near future.

The establishment, to the extent feasible, of appropriate buffers of vegetation to screen industrial uses and facilities from public recreation areas should be supported. Any plans for reconfiguration or expansion of existing water access structures should be planned and reviewed to avoid adverse impacts on coastal resources and conflicts with navigation and other beneficial uses of the NHMA.

Establishment, implementation, and updating as necessary of a site plan for stormwater pollution prevention should be encouraged and supported to manage, reduce or otherwise control stormwater runoff into the NHMA. The stormwater plan should include the identification of potential pollution sources; procedures for stormwater monitoring; and measures and controls for reducing the potential for stormwater pollution.

This property should be considered an opportunity area for waterfront redevelopment with facilities and amenities for public access to the NHMA. Any future redevelopment should be in accordance with a comprehensive development plan and include a substantial water-dependent component utilizing the site's historically and readily available access to navigable water.

Development of facilities for public access to the NHMA in coordination with any future redevelopment of the site should be encouraged and supported to the extent such facilities do not unduly conflict with appropriate commercial water-dependent uses. Opportunities for public access to be considered should include: a) construction of an extension of the City's riverfront walkway; b) construction of boating facilities to serve as attractions or destinations for visitors to the City, including such facilities as a public marina, excursion/cruise ship dock, docks for short-term use by visiting recreational boaters and facilities to provide access to and from any nearby mooring locations that may be established in the NHMA; and c) provision of scenic overlook structures and other amenities to enhance the enjoyment of river views.

I. Potential Pump-Out Station - Newburgh Municipal Wastewater Treatment Plant

The City is exploring the option of constructing a vessel waste pump-out station at the wastewater treatment plant site. The feasibility of this project will depend on the amount of reconstruction the bulkhead will require; the cost to man the pump-out station and security considerations. In addition, the feasibility of extending the river walkway through this property will be examined. (See Policy 7A).

m. Removal of Sunken Vessels and Debris and Assessment and Cleanup of Contaminated Properties

Abandoned barges and other debris that litter Newburgh's shorefront are a navigational hazard and visual blight. The various logs, river debris and other materials that accumulate along the river banks impede the free and safe use of the harbor by the public. Children as well as adults use them as a fishing pier and diving platform, creating hazardous situations. The debris should be removed from the water by the adjacent property owners unless determined to have historic significance. The determination whether or not to remove sunken vessels will be coordinated with the interagency Ad Hoc Committee for Submerged Cultural Resources. This committee is comprised of the New York State Office of General Services; the State Office of Parks, Recreation and Historic Preservation; the New York State Museum; the New York State Department of Environmental Conservation and the Department of State, Coastal Resources. The City of Newburgh will coordinate with these groups during review of any plans that might potentially affect submerged cultural, historic or archeological resources.

However, a distinction should be made between abandoned vessels and other debris that impede navigation and visual quality along the Hudson River waterfront, and the shoreline structures that protect the shoreline from erosion and flooding. As discussed in a condition assessment of these shoreline structures (see Appendix B), most of the structures are in fair to good condition and do not require intervention to ensure that they function as intended. While some of these structures may be in need of minor repair, in general, removal of vegetation or established debris that is protecting the shoreline should be undertaken with caution, as their removal could cause the structures to become unstable.

Environmental assessment and cleanup projects may include projects to address the extent to which properties potentially available for redevelopment, including redevelopment providing amenities for public access to the NHMA, may be affected by any contamination that would affect redevelopment; projects to assess the type and

extent of any contamination requiring remediation in upland areas and aquatic sediments; projects to identify appropriate remediation measures required for redevelopment and to avoid adverse impacts on the environmental quality of the NHMA; and projects to implement those measures, including the development of remedial action plans.

n. Signs and Logo

Newburgh has many resources to attract visitors: the extensive East End Historic District, spectacular views of the Hudson River, a scenic drive, Washington's Headquarters and an extensive waterfront with a boat launch and docks. There is need for an information program to direct visitors to these sights. Informational brochures, kiosks, signs and a waterfront logo could also be used to remind residents of Newburgh's assets and to foster a sense of pride in the community. The City will work with Orange County and regional tourism promotion groups to ensure that Newburgh's resources are advertised.

A wayfinding signage program should be developed as one means of linking the tourism destinations along Broadway and Liberty Street and other inland locations to the waterfront. In addition, to provide additional historic and cultural interest along the waterfront walkway, the City proposes to develop interpretive signage.

Permitting, size, placement and design guidelines should be developed for all business advertising signs within the LWRP area.

o. Educational Program

Awareness of Newburgh's historic, scenic and marine resources should begin with residents of the City and surrounding communities. Existing educational programs should be supported and new educational programs should be developed and incorporated into the City's recreational programs and offered to the schools. These should concentrate on activities that will bring children to the waterfront and adjacent historic district. Educational and cultural institutions, including the Newburgh Enlarged School District, Mount Saint Mary's College, Orange County Community College, the Sloop Clearwater, Scenic Hudson, Riverkeeper, NYSDEC, the Coast Guard, Washington's Headquarters, the Hudson River Interpretive Center and the Historical Society will be contacted concerning cooperative programs.

The City will continue to develop and encourage education and outreach projects to provide information on a variety of topics to City residents and visitors, including information on coastal resources and the values of those resources in the NHMA; best management practices for stormwater management; public recreation facilities and opportunities; applicable laws, regulations, and ordinances for use of the NHMA and waterfront; and opportunities for public involvement in matters pertaining to the NHMA and implementation of the LWRP. Specific educational programs include preparation and distribution of informational materials, design and placement of interpretive signs and displays (see subsection q, above) and organization of special water and waterfront events.

p. Waterfront Design Standards

Waterfront design standards are needed to ensure that public access facilities on public and private waterfront property are compatible, both physically and visually, with the historic fabric of the City's existing buildings as well as potential sea level changes. Such design standards should be developed in conjunction with any proposed waterfront developments.

q. Newburgh Boat Launch

The Newburgh Boat Launch, located at the foot of Washington Street, is a safe public docking area for residents to launch their boats, canoes, and kayaks. Launching is allowed from 6 a.m. to 6 p.m. There is also an area to sit and relax and observe the boating action on the Hudson River. The City intends to make improvements to better accommodate non-motorized watercraft (i.e. kayaks, canoes, etc.), including storage facilities and related equipment.

Operation, maintenance and enhancement of the boat launching area should be in accordance with a waterfront facilities plan prepared and implemented by the city that provides for safe and efficient pedestrian linkages among the site, other public waterfront areas and other areas of the City, including the Washington's Headquarters historic site. Continued safe and unobstructed navigation access to and from the NHMA and Hudson River should be maintained.

All available opportunities for enhancing the public water-access facilities and services available at the boat launching area should be properly evaluated and may be pursued to the extent feasible, including: a) relocation of trailered boat launching facilities to another site adjoining the NHMA in coordination with future waterfront redevelopment; and b)

development of a waterfront park to complement redevelopment of the Consolidated Iron and Metal redevelopment area, including park facilities for rowing access, launching and landing of other hand-carried vessels and enhanced pedestrian connection to the Washington's Headquarters historic site. Any relocation of trailered boat launching facilities to another site adjoining the NHMA should not result in any significant reduction of currently available boat launching opportunities.

r. Pier-Loun Condominium

Existing bulkhead and boating access structures should be maintained, repaired and replaced as needed to support existing boating facilities, avoid any adverse impacts on navigation, and maintain environmental quality in the NHMA. Continued safe and unobstructed boating access to and from the NHMA and Hudson River by residents should be maintained. Best management practices for property maintenance, including landscape maintenance with reduced amounts of nutrients, should be encouraged to reduce the potential for nonpoint source pollution to enter the NHMA from the property.

s. Newburgh Yacht Club

Existing breakwater and shore protection structures and marina facilities should be maintained, repaired and replaced as needed to support water-dependent uses, avoid any adverse impacts on navigation, and maintain environmental quality in the NHMA. Establishment, implementation and updating as necessary of a marina plan for stormwater pollution prevention should be encouraged to manage, reduce or otherwise control stormwater runoff into the NHMA. The stormwater plan should include the identification of potential pollution sources; procedures for stormwater monitoring; and measures and controls for reducing the potential for stormwater pollution, such as measures and controls to capture any pollutants associated with boat storage and maintenance operations.

t. South Street Right-of-Way

The right-of-way should be used to its full potential as a neighborhood-oriented, waterfront City park providing opportunities for visual and physical access to the waterfront, utilizing the property's natural shoreline. Opportunities for public enjoyment of unobstructed scenic views and pedestrian access to the shoreline should be enhanced through appropriate public facilities and structures, provided in accordance with a waterfront park plan prepared and implemented by the City to guide park use,

maintenance and enhancement. Plans for the park are being developed in coordination with Scenic Hudson through a public planning process under the auspices of the Conservation Advisory Council (CAC). Consideration may be given to establishment and maintenance of a nourished and appropriately stabilized beach area in the extension of the right-of-way to enhance public enjoyment of the shoreline. Upon implementation of a plan for the South Street extension, the extension of the City right-of-way into the NHMA should be maintained free of any encroachments, including private docks and other structures associated with properties adjoining the right-of-way.

u. Commercial Marina Facilities

Existing shore protection structures and marina facilities should be maintained, repaired and replaced as needed to support water-dependent uses, avoid any adverse impacts on navigation, and maintain environmental quality in the NHMA. Continued safe and unobstructed boating access to and from the NHMA and Hudson River should be maintained.

Any future development projects that may affect established boating facilities should not result in significant reduction of currently available recreational boating services. Any plans for reconfiguration or expansion of existing docks, floats, piers and other marina structures should be carefully planned and reviewed to avoid adverse impacts on coastal resources and conflicts with navigation and other beneficial uses of the NHMA.

Public and private projects to provide boat slips or docking space available on a short-term basis should include an appropriate fee schedule for hourly and overnight use for recreational boaters who wish to visit waterfront attractions in the City. Projects may include the provision of water, electric, and pump-out service, restrooms, local transportation connections, showers, laundry facilities, wireless internet access and other amenities for visiting boaters.

v. Newburgh-Beacon Ferry Terminal

All available opportunities for enhancement of the ferry terminal should be properly evaluated and may be pursued to the extent feasible, including opportunities for relocation of the terminal to another site adjoining the NHMA in coordination with future waterfront redevelopment. Any proposals for enhancement and/or relocation of the ferry terminal should be designed and reviewed to avoid or minimize any significant adverse impacts on navigation, coastal resources and upland areas adjoining the NHMA. A suitable

navigation fairway for ferry operations should be maintained free of obstructions at all times between the ferry terminal and the federal navigation channel.

w. Gull Harbour - American Dock Property

Any future development projects that may affect established boating facilities should not result in significant reduction of currently available recreational boating services. Existing shore protection structures and marina facilities should be maintained, repaired and replaced as needed to support water-dependent uses, avoid any adverse impacts on navigation and maintain environmental quality in the NHMA. Continued safe and unobstructed navigation access to and from the NHMA and Hudson River should be maintained.

Any plans for reconfiguration or expansion of existing docks, floats, piers and other marina structures should be carefully planned and reviewed to avoid adverse impacts on coastal resources and conflicts with navigation and other beneficial uses of the NHMA.

Establishment, implementation and updating as necessary of a marina plan for stormwater pollution prevention should be encouraged and supported to manage, reduce or otherwise control stormwater runoff into the NHMA. The stormwater plan should include the identification of potential pollution sources, procedures for stormwater monitoring and measures and controls for reducing the potential for stormwater pollution.

This property should be considered as an opportunity area for waterfront redevelopment with facilities and amenities for public access to the NHMA. Any future redevelopment should be in accordance with a comprehensive development plan and include a substantial water-dependent component utilizing the property's historically available and readily available access to navigable water.

Opportunities for public access to be considered should include: a) construction of an extension of the City's riverfront walkway; b) construction of boating facilities to serve as attractions or destinations for visitors to the City, including such facilities as a public marina, excursion/cruise ship dock, docks for short-term use by visiting recreational boaters and facilities to provide access to and from any nearby mooring locations that may be established in the NHMA; and c) provision of scenic overlook structures and other amenities.

x. Consolidated Iron and Metal Redevelopment Area

This property should be considered as an opportunity area for waterfront redevelopment with facilities and amenities for public access to the NHMA. Any future redevelopment should be in accordance with a comprehensive development plan and include a substantial water-dependent component, as well as amenities for public access to the NHMA, including construction of an extension of the riverfront walkway and provision of areas and facilities for: a) enjoyment of unobstructed scenic views; b) access for hand-carried vessels including rowing shells and kayaks; c) shore-based fishing; and d) special waterfront events. Construction of appropriate shore protection structures recognizing sea level rise and attendant storm surge events and treatments necessary to support public water-dependent uses should be encouraged and supported, including but not limited to vegetated slope stabilization measures.

y. Water Pollution Control Plant

Consistent with requirements for plant operation, maintenance and expansion, opportunities for water-dependent use of the plant's shoreline should be evaluated and pursued to the extent feasible, including opportunities for: a) extension of the City's riverfront walkway; b) establishment of a vessel-waste pump-out station available for public use; c) provision of scenic overlook structures and other amenities for enjoyment of river views; and d) docking facilities for special purposes approved by the City and consistent with all other provisions of the HMP, including docking for aquaculture operations.

z. Waterfront and Water Trails

Projects to establish waterfront trails may include projects to extend shared-use paths (including paved walkways and boardwalks) for walking, bicycling, jogging, wheelchair use, and other nonmotorized uses along the City's entire Hudson River and Quassaick Creek shoreline, to the extent they can be implemented in a safe and environmentally sound manner. Waterfront trails should be identified by signage and adequately separated from motorized vehicle traffic, and may be planned as elements of the Hudson River Valley Greenway Trail System. Trails should be designed to safely support beneficial use by the intended user groups (a minimum width of 10 feet is generally recommended) in accordance with design guidance provided by the American Association of State Highway and Transportation Officials (AASHTO) and other accredited organizations. Projects to establish waterfront trails may include trailside amenities such as benches, bicycle racks, and landscape ornamental features. Waterfront trails projects may be

implemented in coordination with waterfront redevelopment to provide safe and enjoyable connections between waterfront activity areas and other parts of the City, including Downtown Newburgh.

Water trails projects may include the identification and mapping of a water trail system for hand-powered vessels such as kayaks and canoes that may be developed in coordination with other Hudson River towns as an element of the larger Hudson River Greenway Water Trail (HRGWT). Such projects should be consistent with the goals of the HRGWT to provide access and take-out points along the river to allow kayakers and canoeists to experience the river's scenic, natural, historic and cultural resources, and should be planned to create an enjoyable and rewarding experience for recreational paddlers who start their excursions in Newburgh or stop in the City in the course of their journeys on the river. Water trails projects may be linked with and complement existing and future elements of the City's waterfront trails network. Projects may include the design and construction of interpretive displays at waterfront locations providing access to the NHMA for hand-powered vessels and waterproof brochures/trail maps including historical and environmental information and descriptions of points of interest on the City's waterfront and along the water trails.

aa. Harbor Administration Ordinances

The City may investigate the future need and feasibility for adoption and enforcement, pursuant to Section 46-a of the Navigation Law, of a local ordinance to regulate the speed and operation of vessels in the NHMA, including the mooring and anchoring of vessels, the use of vessels as sleeping quarters and the disposal of waste from vessels, to a distance of 1,500 feet from shore, provided that such ordinances do not affect the speed and operation of vessels operating in the Hudson River federal navigation project. In addition, the City may investigate the future need and feasibility for adoption and enforcement, pursuant to Article 42 of the Executive Law, of a local ordinance to regulate the construction, size and location of wharves, docks, moorings, piers, jetties, platforms, breakwaters or other structures, temporary or permanent, to a distance of 1,500 feet from the shore and to impose fees for reasonable expenses incurred by the City in carrying out this regulatory authority. Finally, the City may investigate the future need and feasibility of establishing a new Harbor Manager or Master office of the City, or assigning responsibility to an existing office or official, to oversee activities on, in and contiguous to the NHMA, including scheduling and coordination for the use of City lands and facilities, assistance to other agencies and officials of the City as needed for

implementing the LWRP and HMP and generally advancing the safe and efficient operation of the NHMA.

The decision by the City whether to adopt any or all of the above-described ordinances will be based on a careful evaluation of existing and likely future conditions of the NHMA, as well as budgetary and other logistical concerns. Such evaluation will involve discussion with appropriate City agencies, such as the police and fire departments, waterfront property owners and other stakeholders and other relevant parties.

bb. Water Quality Improvements

Projects for the continued improvement of water quality in the NHMA involve measures to reduce point and nonpoint sources of pollution, including:

- Capital projects for continued separation of stormwater and sanitary sewers and upgrading municipal wastewater collection and treatment systems using best available technology, projected demand for wastewater treatment and community development goals and plans;
- Properly sized (for the anticipated use) vessel-waste pump-out and waste receptacle facilities to receive and contain sewage from marine sanitation devices and portable toilets on recreational and commercial vessels and properly dispose of that sewage into the City's wastewater collection and treatment system (with consideration given to self-operated or attended units, portable units or units for stationary installation, and reasonable fees for facility use);
- Water quality sampling and testing programs (using volunteers as appropriate to collect stormwater samples) to determine and document the correlation between precipitation and any increased levels of bacteria in the NHMA and to provide information for planning the application of appropriate technologies, facilities, and best management practices to manage stormwater to reduce nonpoint source pollution;
- Public education and outreach programs to increase awareness of water quality issues and opportunities for addressing them, including opportunities for applying "green infrastructure" technologies and practices and Low Impact Development (LID) strategies to manage stormwater, reduce runoff and prevent pollution in the NHMA;

- Site-specific to Citywide and regional projects to apply cost-effective and sustainable “green infrastructure” and LID technologies, strategies and best management practices, including: rain gardens and bio-retention areas to provide on-site retention and treatment of stormwater runoff; vegetated (“green”) roofs to reduce stormwater runoff; redirection of downspouts from sewer inlets to permeable surfaces; vegetated swales with engineered soils to treat and attenuate stormwater runoff; constructed wetlands to achieve pollutant removal through settling and biological uptake; urban reforestation to provide permeable areas where stormwater can infiltrate along public right-of-ways; porous pavement areas allowing stormwater to infiltrate the subsoil; and buffer zones of natural or established vegetation to filter runoff that would otherwise directly enter the NHMA; and

- Projects to establish structural stormwater treatment systems and technologies (in accordance with plans prepared by professional engineers licensed by the State of New York with experience in the design and construction of such systems and technology), including catch-basin screens and filters, swirl-type grit chambers, heavy media collectors and other commercially available stormwater control devices to remove pollutants from stormwater. (Such projects should be planned and implemented in coordination with projects to apply nonstructural “green infrastructure” and LID technologies.)

cc. Scenic Overlook Structures

Projects to enhance the enjoyment of scenic views from the City's waterfront may include elevated observation structures with code-compliant guards (railings) in appropriate locations and viewing areas extending waterward over shore protection structures to offer unobstructed views of the NHMA, Hudson River and Hudson Highlands. Scenic overlook structures should be designed to safely support beneficial use in accordance with design guidance provided by the ASCE, USACE and other accredited organizations.

dd. Facilities for Trailered and Hand Carried Vessels

Projects to provide opportunities for launching and retrieving trailered vessels in the NHMA may include enhancing the existing launching facilities for recreational and emergency services purposes (see subsections j and t, above) or providing new facilities, including new ramp and parking areas to accommodate anticipated boat and trailer lengths and with floating docks aligned perpendicular to the shoreline to support boat

launching and retrieval. Facilities for trailered vessels should be designed to safely support beneficial use in accordance with design guidance provided by SOBA, ASCE and other accredited organizations concerning the required ramp (the inclined paved surface that extends into the water), boarding float (providing pedestrian access to and from a boat in the water), gangway (providing pedestrian access between the shore and boarding float), launching fairway (into which boats are launched and from which they are retrieved) and other project elements. Projects to provide new facilities should be designed with consideration to the site's upland and in-water characteristics including the capacity of access roads to accommodate anticipated use; available space for maneuvering and parking of vehicles and trailers; security requirements; shoreline conditions affecting the need for cuts or fills to create the ramp; and exposure to wind, waves, currents and the effects of passing boat wakes.

Projects to support the launching and landing of hand-carried and hand-powered vessels may include the development of handicapped-accessible areas and structures engineered to safely accommodate the needs associated with stepping into and sitting in open vessels such as canoes, and decked vessels such as kayaks, without the substantial infrastructure investments in docks, floats and piers required to accommodate larger vessels. Areas and structures for launching and landing canoes and kayaks should be designed to provide safe access with minimal environmental impacts in accordance with design guidance provided by SOBA, the National Park Service's Rivers and Trails Program and other accredited organizations.



LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 28: NORTH WATERFRONT PLANNING UNIT PROJECT OPPORTUNITIES AND RECOMMENDATIONS





LOCAL WATERFRONT REVITALIZATION PROGRAM

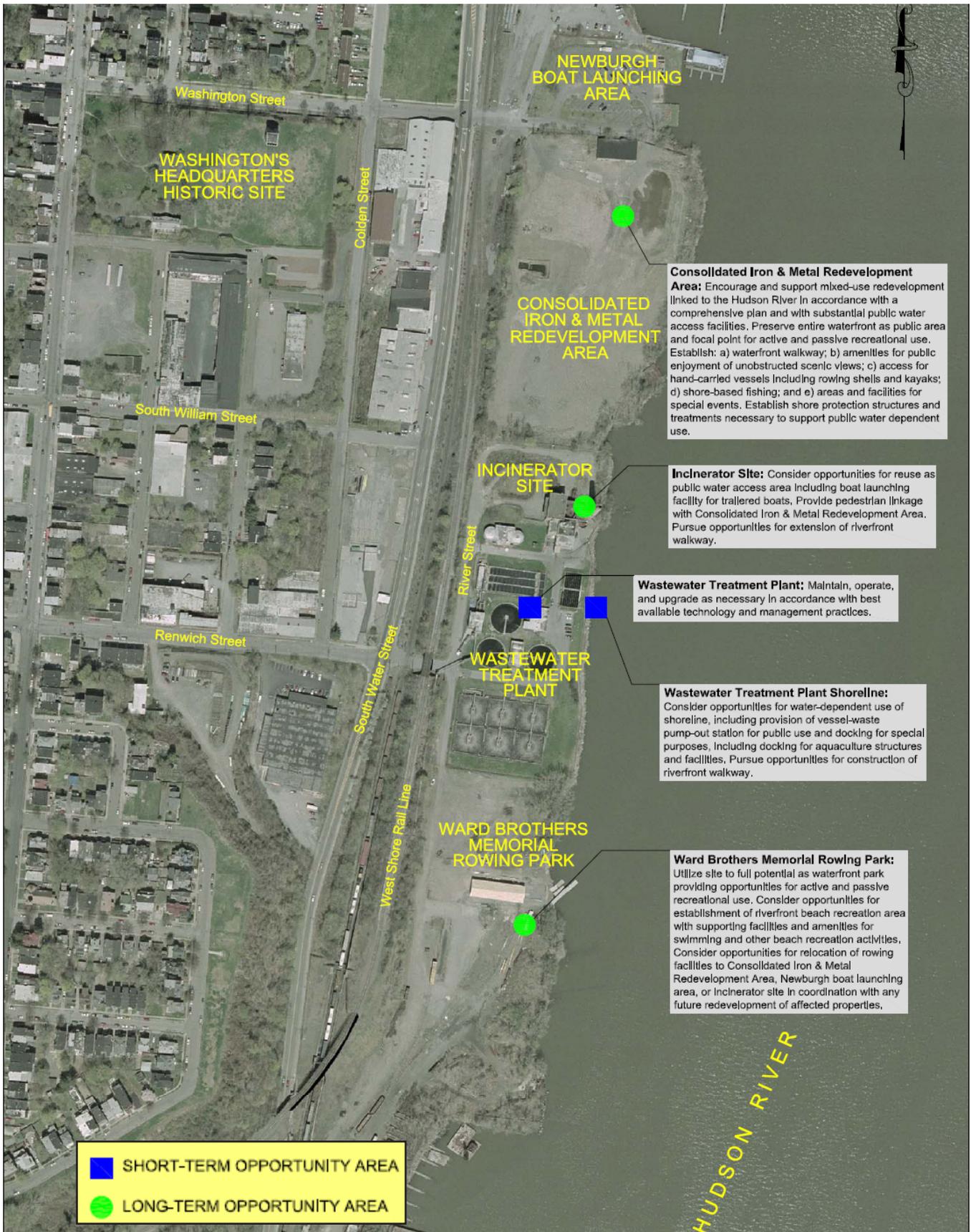
FIGURE 29: SOUTH STREET PLANNING UNIT PROJECT OPPORTUNITIES AND RECOMMENDATIONS



FIGURE 30: FRONT & WASHINGTON STREETS PLANNING UNIT PROJECT OPPORTUNITIES AND RECOMMENDATIONS

LOCAL WATERFRONT REVITALIZATION PROGRAM





LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 31: SOUTH WATER STREET PLANNING UNIT PROJECT OPPORTUNITIES AND RECOMMENDATIONS





FIGURE 32: SOUTH WATERFRONT & QUASSAICK CREEK PLANNING UNIT PROJECT OPPORTUNITIES AND RECOMMENDATIONS

LOCAL WATERFRONT REVITALIZATION PROGRAM





Photo 1: Newburgh Yacht Club and Pier-Loun condominium in North Waterfront Planning Unit downstream of Newburgh-Beacon Bridge.



Photo 2: Regal Bag property in South Street Planning Unit.



Photo 3: Southern part of South Street Planning Unit (to right) and northern part of Front Street Planning Unit. (South Street is perpendicular to the shore, and its right-of-way extends into the NHMA.)



Photo 4: Front Street and Washington Street Planning Units looking south over Riverfront walkway and Torches Marina, Newburgh Landing (marked by ●), Front Street Marina, and Gull Harbour Marina (at top of photo).



Photo 5: Washington Street and Front Street Planning Units looking north. (Newburgh boat launching ramp and Gull Harbour-American Dock property in right foreground.)



Photo 6: Washington Street Planning Unit with, from left to right, Newburgh boat launching ramp, Gull Harbour Marina-America Dock property, Newburgh-Beacon ferry dock, First Street Pier and Front Street Marina.



Photo 7: Looking north over Consolidated Iron and Metal redevelopment area in the South Street Planning Unit. (Washington Street Planning Unit at top of photo.)

Photo 8: South Water Street Planning Unit with, from bottom left to right, Ward Brothers Memorial Rowing Park, Water Pollution Control Plant, incinerator site, and Consolidated Iron & Metal redevelopment area.





Photo 9: Ward Brothers Memorial Rowing Park in South Water Street Planning Unit.



Photo 10: South Waterfront and Quassaick Creek Planning Units, looking west over Steel Style shipyard property (right), mouth of Quassaick Creek and watershed (center), and oil terminals in Town of New Windsor (left).

SECTION V

**LOCAL LAWS AND REGULATIONS
NECESSARY TO IMPLEMENT
THE PROGRAM**

SECTION V LOCAL LAWS AND REGULATIONS NECESSARY TO IMPLEMENT THE PROGRAM

This section describes the techniques for implementation of the City of Newburgh LWRP. It describes the land use controls that have been enacted by the City to implement the policies and projects of the LWRP, and makes recommendations for potential changes to these techniques.

A. LAWS AND REGULATIONS

1. Zoning Regulations

The zoning regulations for the City of Newburgh establish use districts and regulations applicable to the uses allowed within each district. The zoning regulations establish setback and density requirements and regulate the bulk and arrangement of buildings, the area of lots covered by development and open space, the provision of off-street parking and the location of accessory structures that support the principal uses and buildings on each property.

Recently, the City of Newburgh has embarked on a complete rewrite of its Zoning Ordinance. The area within the LWRP area will be guided by a combination of both traditional zoning and formed based zoning. This will provide increased development options within the LWRP area.

In response to the goals and polices outlined in the Adopted 2008 Sustainable Master Plan, the 2011 Future Land Use Plan, and this LWRP, the amended Zoning Ordinance will allow for the implementation of key recommendations and projects contained within the LWRP.

2. City of Newburgh Urban Renewal Plan

The Urban Renewal Plan was enacted in the 1960s to guide the redevelopment of urban renewal parcels. The Urban Renewal Plan is still utilized by the City to guide the disposition of former urban renewal parcels located within the LWRP area.

Urban renewal policies are consistent with, and support several LWRP policies, specifically:

- Policy 1: Revitalization of Deteriorated Waterfront Areas
- Policy 18: Safeguarding Vital Interests of the State
- Policy 19: Access to Public Water-Related Recreation
- Policy 23: Historic Resources
- Policy 25: Overall Scenic Quality

3. Local Consistency Law

A local law (Chapter 159) was adopted under the Waterfront Revitalization and Coastal Resources Act of the State of New York (Article 42, Executive Law) enabling the City to review its own or any other proposals for activities within the LWRP area. This review ensures that actions are consistent with the policies and purposes of the LWRP.

Under this law, a Conservation Advisory Council (formerly the Waterfront Advisory Committee) has been established as an advisory body to the City's Planning Board. The Committee is furnished with a complete copy of a Coastal Assessment Form (CAF) to assist with the consistency review. The Planning Board considers the recommendations of the Committee before making its determination as to the consistency of a proposal with the objectives of the Local Waterfront Revitalization Program. State and federal actions are reviewed in accordance with guidelines established by the NYS Department of State. All local projects located within the LWRP area must undergo consistency review through the Planning Board.

SECTION VI

**STATE AND FEDERAL ACTIONS AND PROGRAMS
LIKELY TO AFFECT IMPLEMENTATION**

SECTION VI STATE AND FEDERAL ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION

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

The following state and federal authorities are part of the institutional framework for local waterfront planning and harbor management that includes planning initiatives as well as regulatory requirements. The City anticipates that all of the involved governmental entities identified in this section will likely have continuing roles affecting Newburgh's waterfront area.

A. Institutional Framework for the LWRP and HMP

1. State Agencies and Authorities

On the state level, a number of agencies, laws, regulations and programs affect the NHMA. Key State agencies include the Department of State's Division of Coastal Resources (DOS DCR), the Department of Environmental Conservation, the Office of Parks, Recreation and Historic Preservation and the Office of General Services (OGS). In addition, the marine unit of New York State Police enforces state boating laws in the river and responds to in-water emergencies, and the Department of Transportation is responsible for maintaining the Newburgh Beacon Bridge just upstream from the NHMA.

a. Department of State Division of Coastal Resources

The DOS DCR administers the New York Coastal Management Program (CMP) and coordinates activities essential to the CMP's implementation. Authority for the CMP was established by the state Waterfront Revitalization and Coastal Resources Act (Article 42 of the New York Executive Law) which enables the state to manage its coastal resources pursuant to the provisions of the Federal Coastal Zone Management Act. The CMP covers the tidal portion of the Hudson River in addition to the other coastal areas of the State, and establishes 44 management policies to carry out the legislative intent that a balance be established between economic development and coastal resource protection in

the state's coastal area. Under the CMP, each coastal area municipality may prepare a Local Waterfront Revitalization Program based on local needs and objectives for promoting beneficial waterfront development and protecting environmental resources. Upon approval of an LWRP by the New York Secretary of State, it becomes part of the CMP.

Responsibilities and interests of the DOS DCR regarding the NHMA include review of proposed development activities for consistency with the CMP, assistance to the City for preparation of its LWRP and provision of planning and funding assistance for special projects, including projects to enhance opportunities for public access to the NHMA. All major actions proposed in the coastal area of New York State by federal agencies or by entities requiring federal permits (from the U.S. Army Corps of Engineers (USACE), for example) must be consistent with the management policies established in the CMP and in any applicable LWRP. The DOS DCR evaluates the consistency of federal activities with the policies set forth in the CMP. If a proposed action is judged inconsistent by the DOS DCR, a permit can not be issued.

In addition to federal activities, state agency activities are also required to be consistent with the CMP and any applicable LWRP. Each State agency that proposes to permit, fund or directly undertake an action in the coastal area must determine the consistency of its action with the policies and purposes of the CMP.

b. Department of Environmental Conservation

The DEC exercises both resource management responsibilities (directed toward managing fish and wildlife resources) and regulatory responsibilities (including permit authority over activities affecting navigable waters and freshwater wetlands and other authorities). The DEC is responsible for protecting natural resources in the coastal area of the state, and exercises this responsibility through various permitting, review, management and law enforcement programs. For example, the DEC reviews proposed development activities with the potential for significant environmental impact in accordance with the requirements of the State Environmental Quality Review Act (SEQRA), Freshwater Wetlands Act, Stream Protection Act and Water Pollution Control Act. In addition, the DEC implements the Environmental Quality Bond Act and the Coastal Erosion Hazard Areas Act.

The DEC's central office in Albany establishes statewide policies and regulations and provides technical assistance to the regional DEC offices. DEC Region 3, headquartered in New Paltz, has jurisdiction for the Newburgh waterfront area.

Under the Stream Protection Act (Article 15 of the Environmental Conservation Law), a permit is required from the DEC for: a) altering the course, channel, or bed of a stream; b) erecting a dam or dock on the waters of the State; and c) dredging or filling in the navigable waters of the State or in adjacent marshes or wetlands.

The permitting program established by this Act is the state counterpart of the federal Section 10 and Section 404 permitting programs carried out by the USACOE (see the later section on Federal Agencies and Authorities), and may affect boating facility development in the waterfront area. The section of the Stream Protection Act requiring a DEC permit for a permanent dock is the state counterpart to the Section 10 program; the section of the Act requiring a permit for excavating or placing fill in the navigable waters of the state or in adjacent marshes and wetlands is a counterpart to the Section 404 program. "Navigable waters of the State" are defined in the state Navigation Law to include all lakes, rivers, streams and waters within the boundaries of the state that are not privately owned, that are navigable in fact, or upon which vessels can operate.

In accordance with the Water Pollution Control Act (Article 17 of the Environmental Conservation Law) and pursuant to the federal Clean Water Act, the State has classified its coastal waters, and its rivers, streams, lakes and ponds according to considerations of best usage, and has adopted water quality standards for each class of waters. The classifications are used by the DEC in issuing permits to industrial and commercial uses for effluent discharge into surface waters and range from AA (the highest classification) to D (the lowest).

Under the State Pollutant Discharge Elimination System (SPDES), the DEC regulates all industrial, commercial and municipal discharges as well as discharges from residential subdivisions of five or more lots into the state's surface and ground waters. The City's water pollution control plant and the 11 City outfalls that allow combined stormwater and wastewater to enter the Newburgh Harbor Management Area during periods of heavy rain operate under the conditions established in SPDES permits.

In addition to its regulatory powers, the DEC administers State grant programs such as the Environmental Bond Act and Environmental Protection Fund that

can be used by municipalities to fund projects for land preservation and improvement projects, and has provided funding to the City for improvement of City waterfront facilities providing access to the waterfront. The DEC also manages the state's Hudson River Estuary Program to protect, conserve, restore and enhance the estuary in accordance with the Hudson River Estuary Management Act. The program involves a collaboration of a number of state agencies, including the DOS DCR and OPRHP, as well as private entities, not-for-profit organizations and local governments.

c) Office of Parks, Recreation and Historic Preservation

The main responsibility of the OPRHP is to operate and maintain a statewide system of parks and historic sites that meets the recreational needs of the people of the state. The OPRHP is also responsible for marine and recreational vehicles programs and facilities, and is responsible for administration of the state's Navigation Law. The OPRHP's Bureau of Marine and Recreational Vehicles has general responsibility for boating safety in New York State, and provides funding and training for marine law enforcement as well as boating education programs. Section 79-b of the Navigation Law provides for state financial assistance to a county, city, town, or village for authorized expenditures (e.g., vessel, personnel and training costs) for enforcement of the Navigation Law. The OPRHP also conducts a Marine Law Enforcement School each year in which local and county law enforcement agencies may participate.

In accordance with the Navigation Law, no local law or ordinance pertaining to the regulation of vessels (such as a vessel speed limit law) and/or to the establishment of a vessel regulation zone within 1,500 feet of the shoreline can take effect until it has been submitted to and approved by the Commissioner of Parks, Recreation and Historic Preservation. Municipal regulation of vessels is limited, by the Navigation Law and Article 42 of the Executive Law, to the area within 1,500 feet of the shoreline. The OPRHP also places and maintains nonfederal aids to navigation in state waters.

The OPRHP manages the Washington's Headquarters Historic Site in the City's Waterfront Area and has provided funding to the City for improvement of City waterfront facilities providing opportunities for public access to the waterfront area. The OPRHP also supports boat tours operated by private companies, including companies operating from the City's waterfront, to the Bannerman Castle historic site downstream of the Newburgh waterfront.

d) Office of General Services

The OGS is the proprietor of state lands, including lands under water. With respect to tidal bodies of water such as the Hudson River, the state typically owns the land seaward of the last known location (prior to the placement of any fill) of the MHW line. As authorized by the New York State Public Lands Law, the Commissioner of General Services can issue grants, easements and leases for private use of submerged lands within the public domain (i.e., below the MHW line). This use may include the construction of certain specified structures, including marina docks and piers.

Grants of underwater lands are now issued only for lands that have been filled for a long period of time, while easements and leases are more commonly issued. Most of the leases and easements now being issued are for a maximum term of 10 years. Municipalities and utility companies, however, may be issued leases in perpetuity. The fee for leases and easements is worked out by a formula that takes into consideration fair market value, commercial revenue, and other factors.

While the State generally owns the underwater lands below MHW in tidal areas, shorefront property owners maintain riparian rights that include the right to build docks or piers over State waters to reach navigable water. This usually does not require a lease or easement from the State if the dock or pier extends for no longer than 40 feet or to a depth of no greater than four feet at low water, and if it is used for private purposes only. Commercial operations, however, no matter what their size, require an easement or lease. The developer of a commercial marina facility, for example, with structures that would extend into Newburgh Harbor Management Area, must obtain an easement or lease from the state, unless that developer is also the owner of a previously issued underwater land grant on the site of the proposed facility. Grants of underwater lands have previously been issued by the state adjacent to the shore in the LWRP area.

The application procedure for an easement or lease from the state is initiated after the necessary DEC and USACOE permits are obtained, along with certification of consistency with the New York CMP.

2. Federal Agencies

Three Federal agencies with active roles and authorities affecting the LWRP area are the U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (EPA) and U.S. Coast Guard. Other Federal agencies such as the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Federal Emergency Management Agency and the National Oceanic and Atmospheric Administration have less direct interests.

Although the navigable waters of the Hudson River are generally subject to State control and jurisdiction, in exercise of the power of Congress over navigation stemming from the Commerce clause of the Constitution, the rights of the federal government take priority where navigation is concerned.

a. U.S. Army Corps of Engineers

The Newburgh waterfront area is within the jurisdiction of the USACE New York District, North Atlantic Division, with headquarters in New York City. The USACE has several significant responsibilities affecting the area, including regulation of any permanent or temporary structures below the MHW, regulation of dredging or filling of wetlands and navigable waters, and maintenance of the Hudson River federal navigation channel. The USACE's channel maintenance responsibilities include conducting surveys for navigation, drift and snag removal, and maintenance dredging as needed.

Most of the USACE's regulatory authorities originate from Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act of 1977. Under Section 10, the USACE regulates structures in, or affecting, navigable waters of the United States as well as the excavation or deposition of material in navigable waters. Under Section 404, the USACE is responsible for evaluating applications for Department of the Army permits to deposit dredged and/or fill material into waters of the U.S., including adjacent wetlands.

The USACE issues two types of permits: individual permits and general permits. An individual permit is issued following evaluation of a specific proposal, and involves public notice of the proposed activity, review of comments and, if necessary, a public hearing.

In general, an individual permit must be received from the USACE for the following activities: filling of wetlands and navigable waters; placement of structures, including docks, piers, pilings, and bulkheads, in navigable waters; and dredging and disposal of dredged material.

A general permit is a USACE authorization issued for categories of activities judged to be substantially similar in nature and to cause only minimal individual and cumulative adverse environmental impacts. General permits include nationwide permits and regional permits. Activities that conform to the requirements for a nationwide or regional permit do not require a full application to the USACE nor a public notice. Examples of activities permitted (subject to various conditions and restrictions) under the nationwide general permit include: aids to navigation authorized by the Coast Guard; noncommercial single-boat mooring buoys; temporary buoys and markers placed for recreational uses such as water skiing and boat racing; outfall systems where a wastewater discharge permit has been obtained; and repair, rehabilitation or replacement of any previously authorized, currently serviceable structure or fill.

b. U.S. Environmental Protection Agency

The EPA has several responsibilities that directly or indirectly affect the LWRP area. A number of these responsibilities are directed toward protection and improvement of water quality. For example, the EPA is responsible for: establishing standards for discharge of municipal and industrial wastewater; providing grants for construction of municipal sewerage systems; and administering the National Pollutant Discharge Elimination System (NPDES). In New York, responsibilities for administration and enforcement of the NPDES, in accordance with the provisions of the federal Clean Water Act, have been turned over to the DEC.

Under Section 312 of the Clean Water Act, the EPA has established the Hudson River as a no-discharge zone within which no sewage, treated or untreated, may be discharged from any vessel.

Under Section 404 of the Clean Water Act, the EPA has responsibility for reviewing and commenting on applications submitted to the USACE for dredging and filling in navigable waters. Section 404(c) enables the EPA to veto a USACE permit for dredging or filling if it determines that the development activity would have an unacceptable adverse effect on municipal water supplies, fisheries areas, wildlife, recreational areas, or other resources.

The EPA also provides technical and funding support through Section 319 of the Clean Water Act for cooperative watershed management projects aimed at the reduction of non-point source (NPS) pollution. The EPA is also responsible for

implementing the federal Comprehensive Environmental Response, Compensation and Liability Act applied to the clean-up of sites determined to be contaminated with hazardous waste, including the Consolidated Iron and Metal site on the City's waterfront.

c. U.S. Coast Guard

The NHMA and Hudson River are within the jurisdiction of the First Coast Guard District which is headquartered in Boston, Massachusetts. The Coast Guard Station nearest to the NHMA is at Saugerties, New York, where a Coast Guard Aids to Navigation Team is based. The principal responsibility of the Saugerties Station is the maintenance of aids to navigation, including the Federal buoys marking the Hudson River Federal Navigation Project.

The Coast Guard regularly conducts a Waterways Analysis Program through which the adequacy of aids to navigation is evaluated. In addition to regulating and maintaining aids to navigation, the Coast Guard has several other responsibilities that can affect the NHMA, including responsibilities for search and rescue, responding to oil and hazardous materials spills, enforcement of federal boating laws and regulations, ice-breaking, and Homeland Security responsibilities. The Coast Guard Sector New York based on Staten Island has the primary responsibility for these other activities, but first response in some instances may be provided by the Saugerties Station.

Coast Guard search and rescue operations in the Hudson River are carried out cooperatively with local, county, and state agencies and with the Coast Guard Auxiliary. The Coast Guard shares responsibility for responding to oil and hazardous materials spills with the EPA, in cooperation with state and local officials. By law, all spills must be reported to the Coast Guard, and the Coast Guard has the authority to close a harbor to navigation in the event of an emergency.

The Coast Guard has primary responsibility for enforcing federal boating laws and regulations, including the proper use of marine sanitation devices, and has authority to board and inspect vessels to ensure compliance with federal boating laws and regulations. Law enforcement responsibilities are shared with State, county and local enforcement authorities. In accordance with the Federal Maritime Transportation Security Act, the Coast Guard has important responsibilities for port security, including responsibilities for risk assessment, boarding of certain vessels, and assisting port facilities with security planning.

B. State and Federal Actions and Programs

The first part of this section identifies the actions and programs of State and Federal agencies which should be undertaken in a manner consistent with the LWRP. This is a generic list of actions and programs, as identified by the NYS Department of State; therefore, some of the actions and programs listed may not be relevant to this LWRP.

Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State individually and separately notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. Similarly, Federal agency actions and programs subject to consistency requirements are identified in the manner prescribed by the U.S. Coastal Zone Management Act and its implementing regulations. The lists of State and Federal actions and programs included herein are informational only and do not represent or substitute for the required identification and notification procedures. The current official lists of actions subject to State and Federal consistency requirements may be obtained from the NYS Department of State.

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

1. State and Federal Actions and Programs Which Should be Undertaken in a Manner Consistent with the LWRP

a. State Agencies

OFFICE FOR THE AGING

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

DEPARTMENT OF AGRICULTURE AND MARKETS

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Farm Worker Services Programs.
- 4.00 Permit and approval programs:

- 4.01 Custom Slaughters/Processor Permit
- 4.02 Processing Plant License
- 4.03 Refrigerated Warehouse and/or Locker Plant License

DIVISION OF ALCOHOLIC BEVERAGE CONTROL/STATE LIQUOR AUTHORITY

- 1.00 Permit and Approval Programs:
 - 1.01 Ball Park - Stadium License
 - 1.02 Bottle Club License
 - 1.03 Bottling Permits
 - 1.04 Brewer's Licenses and Permits
 - 1.05 Brewer's Retail Beer License
 - 1.06 Catering Establishment Liquor License
 - 1.07 Cider Producer's and Wholesaler's Licenses
 - 1.08 Club Beer, Liquor, and Wine Licenses
 - 1.09 Distiller's Licenses
 - 1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses
 - 1.11 Farm Winery and Winery Licenses
 - 1.12 Hotel Beer, Wine, and Liquor Licenses
 - 1.13 Industrial Alcohol Manufacturer's Permits
 - 1.14 Liquor Store License
 - 1.15 On-Premises Liquor Licenses
 - 1.16 Plenary Permit (Miscellaneous-Annual)
 - 1.17 Summer Beer and Liquor Licenses
 - 1.18 Tavern/Restaurant and Restaurant Wine Licenses
 - 1.19 Vessel Beer and Liquor Licenses
 - 1.20 Warehouse Permit
 - 1.21 Wine Store License
 - 1.22 Winter Beer and Liquor Licenses
 - 1.23 Wholesale Beer, Wine, and Liquor Licenses

DIVISION OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Certificate of approval (Substance Abuse Services Program)
- 3.00 Permit and approval:
 - 3.01 Letter Approval for Certificate of Need
 - 3.02 Operating Certificate (Alcoholism Facility)
 - 3.03 Operating Certificate (Community Residence)
 - 3.04 Operating Certificate (Outpatient Facility)

3.05 Operating Certificate (Sobering-Up Station)

COUNCIL ON THE ARTS

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Architecture and environmental arts program.

DEPARTMENT OF BANKING

- 1.00 Permit and approval programs:
 - 1.01 Authorization Certificate (Bank Branch)
 - 1.02 Authorization Certificate (Bank Change of Location)
 - 1.03 Authorization Certificate (Bank Charter)
 - 1.04 Authorization Certificate (Credit Union Change of Location)
 - 1.05 Authorization Certificate (Credit Union Charter)
 - 1.06 Authorization Certificate (Credit Union Station)
 - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
 - 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
 - 1.09 Authorization Certificate (Investment Company Branch)
 - 1.10 Authorization Certificate (Investment Company Change of Location)
 - 1.11 Authorization Certificate (Investment Company Charter)
 - 1.12 Authorization Certificate (Licensed Lender Change of Location)
 - 1.13 Authorization Certificate (Mutual Trust Company Charter)
 - 1.14 Authorization Certificate (Private Banker Charter)
 - 1.15 Authorization Certificate (Public Accommodation Office - Banks)
 - 1.16 Authorization Certificate (Safe Deposit Company Branch)
 - 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
 - 1.18 Authorization Certificate (Safe Deposit Company Charter)
 - 1.19 Authorization Certificate (Savings Bank Charter)
 - 1.20 Authorization Certificate (Savings Bank De Novo Branch Office)
 - 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
 - 1.22 Authorization Certificate (Savings and Loan Association Branch)
 - 1.23 Authorization Certificate (Savings and Loan Association Change of Location)

- 1.24 Authorization Certificate (Savings and Loan Association Charter)
- 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
- 1.26 Authorization Certificate (Trust Company Branch)
- 1.27 Authorization Certificate (Trust Company-Change of Location)
- 1.28 Authorization Certificate (Trust Company Charter)
- 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
- 1.30 Authorization to Establish a Life Insurance Agency
- 1.31 License as a Licensed Lender
- 1.32 License for a Foreign Banking Corporation Branch

NEW YORK STATE BRIDGE AUTHORITY (Regional Agency)

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion or demolition.

OFFICE OF CHILDREN AND FAMILY SERVICES

- 1.00 Facilities construction, rehabilitation, expansion or demolition or the funding of such activities.
- 2.00 Homeless Housing and Assistance Program.
- 3.00 Permit and approval programs:
 - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
 - 3.02 Operating Certificate (Children's Services)
 - 3.03 Operating Certificate (Enriched Housing Program)
 - 3.04 Operating Certificate (Home for Adults)
 - 3.05 Operating Certificate (Proprietary Home)
 - 3.06 Operating Certificate (Public Home)
 - 3.07 Operating Certificate (Special Care Home)
 - 3.08 Permit to Operate a Day Care Center

DEPARTMENT OF CORRECTIONAL SERVICES

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

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

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

EDUCATION DEPARTMENT

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Certification of Incorporation (Regents Charter)
 - 2.02 Private Business School Registration
 - 2.03 Private School License
 - 2.04 Registered Manufacturer of Drugs and/or Devices
 - 2.05 Registered Pharmacy Certificate
 - 2.06 Registered Wholesale of Drugs and/or Devices
 - 2.07 Registered Wholesaler-Repacker of Drugs and/or Devices
 - 2.08 Storekeeper's Certificate

EMPIRE STATE DEVELOPMENT CORPORATION

- 1.00 Preparation or revision of statewide or specific plans to address State economic development needs
- 2.00 Allocation of the state tax-free bonding reserve

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

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

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act
- 3.00 Facilities construction, rehabilitation, expansion or demolition or the funding of such activities
- 4.00 Financial assistance/grant programs:
 - 4.01 Capital projects for limiting air pollution
 - 4.02 Cleanup of toxic waste dumps
 - 4.03 Flood control, beach erosion and other water resource projects
 - 4.04 Operating aid to municipal wastewater treatment facilities

- 4.05 Resource recovery and solid waste management capital projects
- 4.06 Wastewater treatment facilities
- 5.00 Funding assistance for issuance of permits and other regulatory activities (New York City only)
- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
 - (a) Water Quality Improvement Projects
 - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects
- 7.00 Marine Finfish and Shellfish Programs
- 8.00 New York Harbor Drift Removal Project.
- 9.00 Permit and approval programs:

Air Resources

- 9.01 Certificate of Approval for Air Pollution Episode Action Plan
- 9.02 Certificate of Compliance for Tax Relief - Air Pollution Control Facility
- 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
- 9.04 Permit for Burial of Radioactive Material
- 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 9.06 Permit for Restricted Burning
- 9.07 Permit to Construct: a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

Construction Management

- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License

- 9.14 Licenses to Breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell Trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License
- 9.21 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
- 9.22 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
- 9.23 Permit - Article 24, (Freshwater Wetlands)

Hazardous Substances

- 9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 9.26 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish

Lands and Forest

- 9.27 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 9.28 Floating Object Permit
- 9.29 Marine Regatta Permit
- 9.30 Navigation Aid Permit

Marine Resources

- 9.31 Digger's Permit (Shellfish)
- 9.32 License of Menhaden Fishing Vessel
- 9.33 License for Non-Resident Food Fishing Vessel
- 9.34 Non-Resident Lobster Permit
- 9.35 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
- 9.36 Permits to Take Blue-Claw Crabs
- 9.37 Permit to Use Pond or Trap Net
- 9.38 Resident Commercial Lobster Permit
- 9.39 Shellfish Bed Permit

- 9.40 Shellfish Shipper's Permits
- 9.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
- 9.42 Permit - Article 25, (Tidal Wetlands)

Mineral Resources

- 9.43 Mining Permit
- 9.44 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)
- 9.45 Underground Storage Permit (Gas)
- 9.46 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)

Solid Wastes

- 9.47 Permit to Construct and/or Operate a Solid Waste Management Facility
- 9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

- 9.49 Approval of Plans for Wastewater Disposal Systems
- 9.50 Certificate of Approval of Realty Subdivision Plans
 - 9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)
 - 9.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
 - 9.53 Permit - Article 36, (Construction in Flood Hazard Areas)
 - 9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
 - 9.55 State Pollutant Discharge Elimination System (SPDES) Permit
 - 9.56 Approval -Drainage Improvement District
 - 9.57 Approval - Water (Diversion for) Power
 - 9.58 Approval of Well System and Permit to Operate
 - 9.59 Permit - Article 15, (Protection of Water) - Dam
 - 9.60 Permit - Article 15, Title 15 (Water Supply)
 - 9.61 River Improvement District Approvals
 - 9.62 River Regulatory District Approvals
 - 9.63 Well Drilling Certificate of Registration
 - 9.64 401 Water Quality Certification
- 10.00 Preparation and revision of Air Pollution State Implementation Plan
- 11.00 Preparation and revision of Continuous Executive Program Plan
- 12.00 Preparation and revision of Statewide Environmental Plan

- 13.00 Protection of Natural and Man-made Beauty Program
- 14.00 Urban Fisheries Program
- 15.00 Urban Forestry Program
- 16.00 Urban Wildlife Program

ENVIRONMENTAL FACILITIES CORPORATION

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

FACILITIES DEVELOPMENT CORPORATION

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

OFFICE OF GENERAL SERVICES

- 1.00 Administration of the Public Lands Law for acquisition and disposition of State lands, including grants of land and grants of easement of land under water, including for residential docks over 4,000 square feet and all commercial docks, issuance of licenses for removal of materials from lands under water and oil and gas leases for exploration and development
- 2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance
- 3.00 Facilities construction, rehabilitation, expansion or demolition
- 4.00 Administration of Article 5, Section 233, Sub 5 of the Education Law on removal of archaeological and paleontological objects under State water bodies
- 5.00 Administration of Article 3, Section 32 of the Navigation law regarding location of structures in or on navigable waters

**GREENWAY HERITAGE CONSERVANCY FOR THE HUDSON RIVER VALLEY
(Regional Agency)**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Conservancy
- 2.00 Financial assistance/grant programs
- 3.00 Model Greenway Program
- 4.00 Greenway Trail Activities

DEPARTMENT OF HEALTH

- 1.00 Facilities construction, rehabilitation, expansion or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Approval of Completed Works for Public Water Supply Improvements
 - 2.02 Approval of Plans for Public Water Supply Improvements.
 - 2.03 Certificate of Need (Health Related Facility - except Hospitals)
 - 2.04 Certificate of Need (Hospitals)
 - 2.05 Operating Certificate (Diagnostic and Treatment Center)
 - 2.06 Operating Certificate (Health Related Facility)
 - 2.07 Operating Certificate (Hospice)
 - 2.08 Operating Certificate (Hospital)
 - 2.09 Operating Certificate (Nursing Home)
 - 2.10 Permit to Operate a Children's Overnight or Day Camp
 - 2.11 Permit to Operate a Migrant Labor Camp
 - 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
 - 2.13 Permit to Operate a Service Food Establishment
 - 2.14 Permit to Operate a Temporary Residence/Mass Gathering
 - 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
 - 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
 - 2.17 Shared Health Facility Registration Certificate

DIVISION OF HOUSING AND COMMUNITY RENEWAL AND ITS SUBSIDIARIES AND AFFILIATES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition.
- 2.00 Financial assistance/grant programs:
 - 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
 - 2.02 Housing Development Fund Programs
 - 2.03 Neighborhood Preservation Companies Program
 - 2.04 Public Housing Programs
 - 2.05 Rural Initiatives Grant Program
 - 2.06 Rural Preservation Companies Program
 - 2.07 Rural Rental Assistance Program
 - 2.08 Special Needs Demonstration Projects
 - 2.09 Urban Initiatives Grant Program

- 2.10 Urban Renewal Programs
- 3.00 Preparation and implementation of plans to address housing and community renewal needs.

HOUSING FINANCE AGENCY

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

HUDSON RIVER VALLEY GREENWAY COMMUNITIES COUNCIL (Regional Agency)

- 1.00 Greenway Planning and Review
- 2.00 Greenway Compact Activities
- 3.00 Financial Assistance/Grants Program
- 4.00 Greenway Trail Activities

JOB DEVELOPMENT AUTHORITY

- 1.00 Financing assistance programs for commercial and industrial facilities

MEDICAL CARE FACILITIES FINANCING AGENCY

- 1.00 Financing of medical care facilities

OFFICE OF MENTAL HEALTH

- 1.00 Facilities construction, rehabilitation, expansion or demolition or the funding of such activities
- 2.00 Permit and approval programs:
 - 2.01 Operating Certificate (Community Residence)
 - 2.02 Operating Certificate (Family Care Homes)
 - 2.03 Operating Certificate (Inpatient Facility)
 - 2.04 Operating Certificate (Outpatient Facility)

OFFICE OF MENTAL RETARDATION AND DEVELOPMENT DISABILITIES

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

METROPOLITAN TRANSPORTATION AUTHORITY (Regional Agency)

- 1.00 Facilities construction, rehabilitation, expansion or demolition or the funding of such activities
- 2.00 Increases in special fares for transportation services to public water-related recreation resources

DIVISION OF MILITARY AND NAVAL AFFAIRS

- 1.00 Preparation and implementation of the State Disaster Preparedness Plan

NATURAL HERITAGE TRUST

- 1.00 Funding program for natural heritage institutions

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

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office
- 2.00 Facilities construction, rehabilitation, expansion or demolition or the funding of such activities
- 3.00 Funding program for recreational boating, safety and enforcement
- 4.00 Funding program for State and local historic preservation projects
- 5.00 Land and Water Conservation Fund programs
- 6.00 Nomination of properties to the Federal and/or State Register of Historic Places
- 7.00 Permit and approval programs:
 - 7.01 Floating Objects Permit
 - 7.02 Marine Regatta Permit
 - 7.03 Navigation Aide Permit
 - 7.04 Posting of Signs Outside State Parks
- 8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan, the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes
- 9.00 Recreation services program
- 10.00 Urban Cultural Parks Program

POWER AUTHORITY OF THE STATE OF NEW YORK

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority
- 2.00 Facilities construction, rehabilitation, expansion or demolition

NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION

- 1.00 Corporation for Innovation Development Program
- 2.00 Center for Advanced Technology Program

DEPARTMENT OF STATE

- 1.00 Appalachian Regional Development Program
- 2.00 Coastal Management Program
- 3.00 Community Services Block Grant Program
- 4.00 Permit and approval programs:
 - 4.01 Billiard Room License
 - 4.02 Cemetery Operator
 - 4.03 Uniform Fire Prevention and Building Code

STATE UNIVERSITY CONSTRUCTION FUND

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

STATE UNIVERSITY OF NEW YORK

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University
- 2.00 Facilities construction, rehabilitation, expansion or demolition or the funding of such activities

OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE

- 1.00 Facilities construction, rehabilitation, expansion or demolition or the funding of such activities
- 2.00 Homeless Housing and Assistance Program
- 3.00 Permit and approval programs:
 - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
 - 3.02 Operating Certificate (Children's Services)
 - 3.03 Operating Certificate (Enriched Housing Program)
 - 3.04 Operating Certificate (Home for Adults)

- 3.05 Operating Certificate (Proprietary Home)
- 3.06 Operating Certificate (Public Home)
- 3.07 Operating Certificate (Special Care Home)
- 3.08 Permit to Operate a Day Care Center

**THRUWAY AUTHORITY /CANAL CORPORATION/CANAL RECREATIONWAY
COMMISSION (Regional Agency)**

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

DEPARTMENT OF TRANSPORTATION

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department.
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including but not limited to:
 - (a) Highways and parkways
 - (b) Bridges on the State highways system
 - (c) Highway and parkway maintenance facilities
 - (d) Rail facilities
- 3.00 Financial assistance/grant programs:
 - 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
 - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg and New York
 - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
 - 3.04 Subsidies program for marginal branchlines abandoned by CSX
 - 3.05 Subsidies program for passenger rail service

- 4.00 Permits and approval programs:
 - 4.01 Approval of applications for airport improvements (construction projects)
 - 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
 - 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
 - 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
 - 4.05 Certificate of Convenience and Necessity to Operate a Railroad
 - 4.06 Highway Work Permits
 - 4.07 License to Operate Major Petroleum Facilities
 - 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
 - 4.09 Real Property Division Permit for Use of State-Owned Property
- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.
- 6.00 Water Operation and Maintenance Program--Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

URBAN DEVELOPMENT CORPORATION and its subsidiaries and affiliates

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

- 3.00 Administration of special projects.
- 4.00 Administration of State-funded capital grant programs.

DIVISION OF YOUTH

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

b. Federal Agencies

DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS

DEPARTMENT OF COMMERCE

National Marine Fisheries Services

- 1.00 Fisheries Management Plans

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Proposed authorizations for dredging, channel improvements, breakwaters, other navigational works, or erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with potential to impact coastal lands and waters.
- 2.00 Land acquisition for spoil disposal or other purposes.
- 3.00 Selection of open water disposal sites.

Army, Navy and Air Force

- 4.00 Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation or other facilities).
- 5.00 Plans, procedures and facilities for landing or storage use zones.
- 6.00 Establishment of impact, compatibility or restricted use zones.

DEPARTMENT OF ENERGY

- 1.00 Prohibition orders.

GENERAL SERVICES ADMINISTRATION

- 1.00 Acquisition, location and design of proposed Federal Government property or buildings, whether leased or owned by the Federal Government.

2.00 Disposition of Federal surplus lands and structures.

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

1.00 Management of National Wildlife refuges and proposed acquisitions.

Mineral Management Service

2.00 OCS lease sale activities including tract selection, lease sale stipulations, etc.

National Park Service

3.00 National Park and Seashore management and proposed acquisitions.

DEPARTMENT OF TRANSPORTATION

Amtrak, CSX

1.00 Expansions, curtailments, new construction, upgrading or abandonments or railroad facilities or services, in or affecting the State's coastal area.

Coast Guard

2.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.

3.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).

4.00 Expansion, abandonment, designation or anchorages, lightening areas or shipping lanes and ice management practices and activities.

Federal Aviation Administration

5.00 Location and design, construction, maintenance, and demolition of Federal aids to air navigation.

Federal Highway Administration

6.00 Highway construction.

St. Lawrence Seaway Development Corporation

- 7.00 Acquisition, location, design, improvement and construction of new and existing facilities for the operation of the Seaway, including traffic safety, traffic control and length of navigation season.

FEDERAL LICENSES AND PERMITS

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).
- 2.00 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).
- 3.00 Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).
- 4.00 Approval of plans for improvements made at private expense under USACOE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- 5.00 Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404, (33 U.S.C. 1344).
- 6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
- 7.00 Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4(f) of the River and Harbors Act of 1912 (33 U.S.C.).

DEPARTMENT OF ENERGY

Economic Regulatory Commission

- 1.00 Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.
- 2.00 Exemptions from prohibition orders.

Federal Energy Regulatory Commission

- 3.00 Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e) and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(11) and 808).

- 4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824a(b)).
- 5.00 Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).
- 6.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b)).

ENVIRONMENTAL PROTECTION AGENCY

- 1.00 NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Section 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- 2.00 Permits pursuant to the Resources Recovery and Conservation Act of 1976.
- 3.00 Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300h-c).
- 4.00 Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

DEPARTMENT OF INTERIOR

Fish and Wildlife Services

- 1.00 Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153(a)).

Mineral Management Service

- 2.00 Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans.
- 3.00 Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185.

NUCLEAR REGULATORY COMMISSION

- 1.00 Licensing and certification of the siting, construction and operation of nuclear power plants pursuant to Atomic Energy Act of 1954, Title II of

the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969.

SURFACE TRANSPORTATION BOARD

- 1.00 Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines.

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

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

10.906River Basin Surveys and Investigations

DEPARTMENT OF COMMERCE

11.300Economic Development - Grants and Loans for Public Works and
Development Facilities

11.301Economic Development - Business Development Assistance

11.302Economic Development - Support for Planning Organizations

11.304Economic Development - State and Local Economic Development
Planning

11.305Economic Development - State and Local Economic Development
Planning

11.307Special Economic Development and Adjustment Assistance Program –
Long Term Economic Deterioration

11.308Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV,
and V Activities

11.405Anadromous and Great Lakes Fisheries Conservation

11.407Commercial Fisheries Research and Development

11.417Sea Grant Support

11.427Fisheries Development and Utilization - Research and Demonstration
Grants and Cooperative Agreements Program

11.501Development and Promotion of Ports and Intermodal Transportation

11.509Development and Promotion of Domestic Waterborne Transport
Systems

COMMUNITY SERVICES ADMINISTRATION

49.002Community Action

49.011Community Economic Development

49.013State Economic Opportunity Offices

49.017Rural Development Loan Fund

49.018Housing and Community Development (Rural Housing)

ENVIRONMENTAL PROTECTION AGENCY

66.001Air Pollution Control Program Grants

66.418Construction Grants for Wastewater Treatment Works

66.426Water Pollution Control - State and Areawide Water Quality
Management Planning Agency

66.451Solid and Hazardous Waste Management Program Support Grants

66.452Solid Waste Management Demonstration Grants

66.600Environmental Protection Consolidated Grants Program Support
Comprehensive Environmental Response, Compensation and
Liability (Super Fund)

GENERAL SERVICES ADMINISTRATION

39.002Disposal of Federal Surplus Real Property

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

14.112Mortgage Insurance - Construction or Substantial Rehabilitation of
Condominium Projects

14.115Mortgage Insurance - Development of Sales Type Cooperative Projects

14.117Mortgage Insurance - Homes

14.124Mortgage Insurance - Investor Sponsored Cooperative Housing

14.125Mortgage Insurance - Land Development and New Communities

14.126Mortgage Insurance - Management Type Cooperative Projects

14.127Mortgage Insurance - Mobile Home Parks

14.218Community Development Block Grants/Entitlement Grants

14.219Community Development Block Grants/Small Cities Program

14.221Urban Development Action Grants

14.223Indian Community Development Block Grant Program

DEPARTMENT OF INTERIOR

15.400Outdoor Recreation - Acquisition, Development and Planning

15.402Outdoor Recreation - Technical Assistance

15.403Disposal of Federal Surplus Real Property for Parks, Recreation, and
Historic Monuments

15.411Historic Preservation Grants-in-Aid

15.417Urban Park and Recreation Recovery Program

15.600Anadromous Fish Conservation

15.605Fish Restoration

15.611Wildlife Restoration

15.613Marine Mammal Grant Program

15.802Minerals Discovery Loan Program

15.950National Water Research and Development Program

15.951Water Resources Research and Technology - Assistance to State
Institutes

15.952Water 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.

2. Federal and State Actions Necessary to Further the LWRP

a. 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.

b. 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

SECTION VII

**CONSULTATION WITH OTHER AFFECTED
FEDERAL, STATE, REGIONAL AND
LOCAL AGENCIES**

SECTION VII CONSULTATION WITH OTHER AFFECTED FEDERAL, STATE, REGIONAL AND LOCAL AGENCIES

A. Local Consultation

Local consultation has consisted of numerous meetings with the Waterfront Advisory Committee (see Section VIII), which was formed to prepare Newburgh's first LWRP. The seven-member committee is authorized to review and make recommendations to appropriate agencies regarding the consistency of proposed actions with the policy standards of the LWRP. City of Newburgh staff were also consulted.

B. Regional Consultation

No direct regional consultation has taken place.

C. State Consultation

The following State agencies were contacted during the preparation of the LWRP:

Department of Environmental Conservation

Information was requested concerning the classification of the Quassaick Creek and the status of SPEDES permit for discharges into the creek.

Office of General Services

Maps were requested showing ownership of lands under water along the Newburgh waterfront.

Department of State – Division of Coastal Resources

Input was requested regarding the structure and organization of the LWRP.

D. Federal Consultation

No direct federal consultation has taken place at this time.

SECTION VIII

OBTAINING LOCAL COMMITMENT

SECTION VIII OBTAINING LOCAL COMMITMENT

A. Introduction

A number of agencies at the local, county and regional levels of government have authorities that are applied in the LWRP area to manage the use and conservation of that area. These authorities are part of the institutional framework for waterfront planning and harbor management that includes planning initiatives as well as regulatory requirements.

It is also recognized that actions originating in or involving other municipalities in the Hudson River Valley can affect the Newburgh waterfront area, including actions originating in the towns with jurisdictions adjoining the LWRP area. In addition, the general public and waterfront property owners have important water-related rights to use the LWRP area; not-for-profit organizations, including regional environmental organizations, are also interested parties; so too are private businesses that use the waterfront.

This section identifies the local agencies and authorities, the county and regional agencies and the environmental organizations and private groups with authority or influence concerning the NHMA and waterfront. The significant rights of the general public and waterfront property owners are also described.

1. City Agencies and Authorities

The City's jurisdiction over the LWRP area is influenced by state legislation that requires, permits, or restricts the types of jurisdiction the City may carry out. Principal state authorizing laws influencing the City's harbor management jurisdiction are the Municipal Home Rule Law, the Navigation Law and the Waterfront Revitalization and Coastal Resources Act (Article 42 of the New York Executive Law).

The Municipal Home Rule Law provides basic authorizations, requirements and procedures whereby the City may adopt local laws that are not inconsistent with the State Constitution and with general laws enacted by the State Legislature. Local law power is also restricted where the proposed local law action has been pre-empted by the State. Section 46-a of the Navigation Law provides the City with authority to regulate certain activities on any waters within or bounding the City to a distance of 1,500 feet from the shore. (See below.)

The Waterfront Revitalization and Coastal Resources Act authorizes the City to prepare, amend and implement its Local Waterfront Revitalization Program (LWRP) to guide coastal area use and resource conservation in a manner consistent with the State's

coastal management policies. The Act also authorizes preparation and implementation of the City's Harbor Management Plan (HMP) as an essential element of the LWRP, and allows the City, in the course of implementing the HMP, to regulate certain activities on any waters within or bounding its jurisdiction to a distance of 1,500 feet from the shore. (See below.)

The City Charter and Code of Ordinances (Code) establish the powers, duties and regulations that guide the functions and operation of City government. The Charter and Code include, in addition to their sections that set forth the authorities of relevant City agencies, sections that specifically apply to the NHMA. The Charter defines the territorial boundaries of the City including the waters of the Hudson River extending to the centerline of the river. Within that jurisdiction, the City has established its Waterfront Area for the purpose of its LWRP. In addition, the LWRP defines the NHMA as that part of the Waterfront Area waterward of the mean high water (MHW) line in the Hudson River and Quassaick Creek and extending to the centerline of the Hudson River. The Waterfront Area is defined in Chapter 159 of the Code.

a. Administration of City Government

The two major components of the City's government are its legislative branch consisting of the City Council and its executive branch consisting of its various departments and agencies headed by the City Manager. The Council, comprised of the Mayor and six other members, is the legislative and policy-making body of the City, with the power, authority, and duty to make such local laws and adopt such resolutions as are deemed necessary for the conduct of the City's business. The Council also has final approval authority over the City's operating and capital projects budgets. The Council and Mayor provide leadership and direction for the City's waterfront revitalization and harbor management initiatives and help to set and advance the City's vision for use and conservation of its land and water resources.

As authorized by state statutes, the Council may adopt local laws to address navigation and other water-related activities in the NHMA as well as waterfront conditions that can have an important impact on the NHMA. All locally adopted laws must be filed with the New York Secretary of State. Any City law pertaining to navigation or boating safety must be approved by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP; see the later section on State Agencies and Authorities) in accordance with the state Navigation Law.

As authorized by Section 46-a of the Navigation Law, the Council may adopt local laws, rules, and regulations for:

- regulating and restricting the speed and operation of vessels within 1,500 feet from the shore;
- regulating and restricting the anchoring or mooring of vessels within 1,500 feet from the shore;
- regulating and restricting the anchoring or mooring of vessels used or occupied as living or sleeping quarters;
- restricting and regulating garbage removal from vessels; and
- designating and regulating the use of public anchorage areas.

While the Navigation Law does not grant to local governments the authority to regulate docks, piers, and other in-water structures below the MHW line, Article 42 of the Executive Law enables the City, and all other municipalities in the state preparing and implementing harbor management plans, to “adopt, amend and enforce local laws and ordinances... to regulate the construction, size and location of wharves, docks, moorings, piers, jetties, platforms, breakwaters or other structures...” in or above the water, as well as the use of surface waters and underwater lands, to a distance of 1,500 feet from the shore.

Among the City ordinances affecting the NHMA are: Chapter 147 (Docks and Waterways) which establishes regulations for the use of City docks, including the Newburgh Landing dock; Chapter 159 (Conservation) which provides the framework for City agencies to review proposals affecting the City's Waterfront Area for consistency with the LWRP and establishes the Newburgh Conservation Advisory Council (CAC), appointed by the City Council, and the CAC's powers and duties to review proposals for consistency with the LWRP; and Section 300 of the Code which establishes the City's Zoning Ordinance, including the Waterfront Mixed Use and Waterfront Industrial districts.

The City Manager, as the chief administrative and executive officer of the City, also provides leadership to advance the City's waterfront revitalization and harbor management initiatives. Among the City Manager's basic duties are to see that the laws of the state and the ordinances of the Council are enforced in the City; to appoint and remove the heads of departments and members of certain boards and commissions; and to exercise supervision and control over the administrative departments of the City. Examples of more specific responsibilities of the City Manager's office concerning the NHMA include

coordination of special waterfront events and advance scheduling for use of the Newburgh Landing dock.

b. City Boards, Commissions and Departments

In addition to the Mayor, City, Council and City Manager, a number of other City agencies and officials have authorities directly or indirectly affecting the NHMA.

The **Newburgh Conservation Advisory Council**, established by Chapter 159 of the Code (in 2013), is responsible for reviewing proposals affecting the Waterfront Area for consistency with the LWRP (including the LWRP's HMP) and making recommendations to the appropriate agencies. The **Planning Board** has the authority to conduct investigations and prepare maps, reports and recommendations relating to the planning and development of the City and reviews site plans for construction or reconstruction on all land parcels in the City. The **Zoning Board of Appeals** enforces the City's zoning laws, including those laws that affect waterfront use and development, and hears applications for variances to those laws. The **Parks and Recreation Commission** advises the City Council, City Manager and Recreation Department with respect to the maintenance of all City parks and recreational facilities, including the Newburgh Landing and Newburgh boat launch. The authorities of other boards and commissions, including the **Architectural Review Commission** and the **Arts and Cultural Commission**, may also affect the NHMA to the extent those authorities influence waterfront conditions and uses.

City departments with authorities and responsibilities affecting the NHMA include: the **Police Department** whose Marine Unit is responsible for law enforcement in the NHMA, including enforcement of City ordinances and state boating laws, and also provides boating-related services ranging from emergency response to boater education; the **Fire Department** which has emergency response functions as well as responsibilities regarding fire prevention and preparedness in and around waterfront facilities; the **Department of Public Works** which is responsible for construction, development, and maintenance of certain physical properties of the City, including the City's public waterfront areas, and whose responsibilities for stormwater management and sanitary sewers, including supervision of the operation of the City's Water Pollution Control Plant, are particularly significant with regard to the NHMA; the **Department of Planning and Development**, which provides technical assistance to the City Council, City Manager and the community at large on housing, community development, economic

development, and land-use issues, administers federal and state grant programs, and is responsible for preparation of the City's Master Plan, approved by the City Council, which includes the City's major policies for land-use and future development, including policies for the beneficial use and conservation of the City's waterfront; the **Code Compliance Department** within which the City Building Inspector is responsible for enforcing the waterfront consistency review provisions set forth in Chapter 159 of the Code; and the **City Historian's Office** interested in documenting and promoting the City's maritime history associated with the Hudson River.

2. Neighboring Towns

It is recognized by the City that actions originating in or involving the municipalities with jurisdictions adjoining the LWRP area, including the City of Beacon and the towns of Newburgh and New Windsor, can affect the LWRP area. In addition, actions originating in other towns located on the Hudson River and in the upstream watershed of the river may also affect the waterfront area.

3. County Departments and Agencies

County departments and agencies concerned with the NHMA include the Orange and Dutchess County Sheriff's Departments, the Orange County Planning Department and the Orange County Tourism office. The two Sheriff's Departments carry out law enforcement responsibilities in the Hudson River, including enforcement of the state Navigation Law and any local laws pertaining to boating activity, within the jurisdictions of the two counties. The Sheriff's Departments share jurisdictional responsibility for marine law enforcement in the river with the City's Police Department, State Police and other state law enforcement agencies, including law enforcement divisions of the Department of Environmental Conservation (DEC) and the OPRHP.

The primary functions of the Orange County Planning Department are to plan for countywide development and to provide technical assistance to local governments in the county. In addition, any proposed action by the City to adopt or amend zoning regulations, approve site plans, issue special permits, or grant variances within 500 feet of its boundaries must be referred to the County Planning Department for recommendations prior to final action by the City.

The Orange County Tourism office provides visitors with information on waterfront activities, boat trips, and other attractions in the City and along the Hudson River.

4. The General Public

The waters of the LWRP area and the Hudson River are public waters; the general public has important rights to use them for navigation, recreation, and other purposes in accordance with the Public Trust Doctrine – the body of law pertaining to waters subject to the ebb and flood of the tide as well as navigable freshwaters. Under the Public Trust Doctrine, the title to tidewaters, navigable freshwaters, submerged lands beneath those waters, and the plant and animal life inhabiting those waters is held by the State of New York in trust for the benefit of the general public, except in those instances where ownership of the submerged land may have been previously granted to private ownership by the State of New York or by colonial patent or charter. The Public Trust Doctrine is not embodied in statute or the constitution, but is viewed as a sovereign right of the state.

The concept of the Public Trust Doctrine is based in English common law and on the principle, dating back to Roman civil law that certain lands and resources are so important to the public that private ownership or other impediments to public use should not be permitted. English common law established a distinction between public and private waters and that distinction was applied in the 13 colonies. Essentially, tidal water courses connected with the sea were deemed so important for transportation and commerce that their ownership, including ownership of the underlying soil, was retained by the King. After the American Revolution, the 13 original states succeeded to the “rights of sovereign prerogative,” including the right of title to tidewaters and submerged lands. Since that time, state and federal courts, including the U.S. Supreme Court, have consistently held that the states hold that title in trust for the public's benefit.

Private ownership of upland areas adjoining the Public Trust area (including ownership by a municipality or any governmental agency) may not extend past the MHW line. With respect to tidal bodies of water such as the Hudson River, the state generally owns the land seaward of MHW. The public rights most commonly associated with public trust lands and waters have included navigation, fishing and commerce. Use of public waters for navigation is the central and essential public right and generally takes precedence over other rights. The public has the right to pass and repass on navigable waters without interference or obstruction. Where an obstruction does occur, it constitutes a public nuisance. The right of free navigation is subject to lawfully enacted restrictions (concerning the operation of vessels in the interest of public safety, for example) and includes the right to anchor.

To the extent that members of the public can gain access to navigable waters without trespassing on the adjoining uplands of riparian owners (see below) they may use navigable waters for recreational purposes, including boating, swimming and related activities.

When discussing public rights for use of tidal and navigable waters, questions concerning the public's right of access to these waters are particularly important. Where title to the land adjoining navigable waters is in private ownership, the property owner may deny access across his or her land to the Public Trust area. Described below, the right of access to public waters is one of the most significant rights associated with the ownership of lands bordering navigable water; possession of this right distinguishes the waterfront property owner from members of the general public.

5. Waterfront Property Owners

Certain rights – referred to as riparian or littoral rights – are inherent in the ownership of lands bordering navigable water. One of the most important of these rights is the right of access to navigable water. (With regard to water rights law, water rights arise when property either abuts or contains water. If the water in question is flowing (e.g., river or stream) the rights are said to be riparian. If the property is subject to the ebb and flow of the tide, or is located on a lakeshore, the rights are said to be littoral rights. Despite these distinctions, the terms “riparian” and “littoral” are commonly used interchangeably. The term littoral rights is herein used to describe the rights of the owners of property adjoining the NHMA.)

The riparian right of access to a navigable water course is totally distinct from the right of the general public to use that watercourse. New York courts have held that the owner of upland property adjacent to navigable water has certain exclusive yet qualified rights and privileges in the adjoining submerged land and navigable waters, including the exclusive right to build docks and piers from the upland to reach deep water (often referred to as “wharfing out”). These structures, however, must not unreasonably interfere with the public's right of navigation and must be acceptable under applicable regulatory statutes, including the statutes that protect natural resources. In other words, the exercise of the riparian right must not interfere with the rights and interests of the state and the general public and with the federal interest in navigation.

Described above, both the USACE and DEC regulate the construction of docks and piers and other activities waterward of the MHW line in tidal and navigable waters. The State and federal regulatory programs help to ensure that the exercise of riparian rights is consistent with the public's interest in those waters.

A waterfront property owner can not exclude the general public from lawful uses of the Public Trust area adjoining the owner's property. Also, all riparian rights must be exercised with due regard for the rights of other riparian owners; the waterfront property owner can not wharf out from the shore, for example, in a manner that encroaches on the riparian area of an abutting waterfront property owner.

In the LWRP area, the owners of waterfront properties supporting recreational marinas and marine-commercial facilities have riparian rights of access to the LWRP area. The wharf and pier structures at these facilities were constructed in accordance with those rights. The City, as the owner of waterfront property also has riparian rights of access to the waterfront area.

6. Private Groups and Organizations

Several private groups and nongovernmental organizations also have significant interests concerning use of the LWRP area and protection of the environmental quality associated with it. These include not-for-profit groups and organizations such as Scenic Hudson, the Hudson River Sloop Clearwater, Inc., the Hudson River Valley National Heritage Area, Sustainable Hudson Valley, the Hudson River Foundation and the Hudson Riverkeeper Fund concerned with preserving and restoring the ecological, scenic, historic and recreational resources of the Hudson River.

Other interested organizations include the Orange County Land Trust which is working with governmental agencies and other not-for-profit groups to plan and establish a public park and trail system in the Quassaick Creek stream corridor; and Newburgh Rowing Club, which operates its programs from the City's Ward Brothers Memorial Rowing Park; and the Coast Guard Auxiliary based in Kingston, New York, a voluntary organization that assists the U.S. Coast Guard with search and rescue efforts and with education for boating safety in this part of the Hudson River.

In addition, the Metro-North Railroad operates its ferry-rail link across the river between the City and Beacon, New York; the CSX Transportation company which carries freight on the West Shore rail line that generally follows the City's waterfront; the Newburgh Yacht Club which provides boating facilities for its members and guests; and the operators of water-dependent and water-enhanced businesses on the City's waterfront, including recreational marinas, excursion boats, marine-commercial facilities, and waterfront restaurants.

B. LWRP Process

The City of Newburgh appointed the Waterfront Advisory Committee (now the CAC) to prepare its first draft Local Waterfront Revitalization Program (LWRP). Members of the WAC represented the main community sectors interested in the coastal area, namely commercial marine interests, real estate agents and developers, historic preservationists, and general businessmen. City agencies represented on the WAC were the Recreation Department, the Fire Department, and the Office of Economic Development. The Planning Board Chairman, the Chairman of the Zoning Board of Appeals, and a City Councilman were also members.

The WAC met with the City Manager and with the Mayor and City Council on several occasions to discuss the direction of the LWRP. The City also hosted a meeting for Hudson River municipalities which was conducted by Scenic Hudson. The meeting addressed the assessment of visual impacts of proposed development projects.

The WAC met regularly, including on the following dates:

- May 20, 1987
- July 13, 1987
- October 6, 1987
- November 9, 1987
- February 29, 1988
- March 14, 1988
- April 11, 1988
- May 16, 1988
- November 9, 1988
- May 4, 1989

A draft LWRP was prepared in 1992 and adopted by the City of Newburgh. In 1999, because of redevelopment initiatives, the City determined it was timely to revise and update its locally adopted LWRP. This update was prepared by staff from several City departments and reflected current land uses, economic, natural, infrastructure and community service policies as they related to the City's local waterfront revitalization area. The revised LWRP was adopted by the City Council and approved by the State in 2001.

In 2007, again because of redevelopment initiatives, the City determined it was appropriate to update its LWRP as well as prepare a HMP. This update has been prepared by the City's planning consultant, BFJ Planning and Geoffrey Steadman, HMP Consultant, with assistance from City staff and the WAC (now CAC). This amendment to the existing LWRP updates the existing

conditions within the LWRP area to reflect changes experienced in the area since 2001, with the following objectives:

- Preserving open space and increasing public access to the waterfront
- Linking of the waterfront to the historic district, Washington's Headquarters and the Broadway commercial area
- Addressing parking issues on the waterfront by planning for and integrating inter-modal and multi-modal transportation links to the waterfront
- Identifying contaminated sites in and adjacent to the LWRP area and planning for contaminant remediation
- Preparation of a Harbor Management Plan, as set forth in 19 NYCRR Part 603 and further described in guidelines prepared by the Department of State

The WAC met regularly throughout 2007 and into 2008 to prepare the amendments to the 2001 LWRP. The Committee met with Robert McKenna, Director of Planning and Development and with members of his staff, as well as with the City's LWRP and HMP consultants, on numerous occasions to discuss the direction of the LWRP and HMP; all of these meetings were open to the public. The City also hosted a public workshop on September 19, 2007 to present the preliminary sections of the amended LWRP. The City hosted two additional public workshops on May 3 and May 6, 2008 to present the draft LWRP to the public. The City's LWRP consultants also met extensively with City staff.

The WAC met regularly, including the following dates:

- April 18, 2007
- May 9, 2007
- May 23, 2007
- June 13, 2007
- August 15, 2007
- September 19, 2007 (Public Workshop)
- October 11 and 13, 2007 [Generic Environmental Impact Statement (GEIS) Scoping Sessions]
- October 17, 2007
- November 28, 2007
- December 5, 2007
- January 16, 2008
- May 3, 2008 (Public Workshop)
- May 6, 2008 (Public Workshop)

In addition to the WAC meetings listed above, the City's LWRP and HMP consultants also conducted the following meetings with stakeholders and research sessions:

- April 3, 2007: Planning meeting with City officials and planning team
- June 13, 2007: Boat trip to conduct in-water reconnaissance of the Newburgh Harbor Management Area
- September 7, 2007: Aerial reconnaissance and photo flight of the Newburgh Harbor Management Area
- December 10, 2007: Waterfront reconnaissance of existing conditions
- December 17, 2007: Waterfront reconnaissance of existing conditions and opportunity areas
- December 28, 2007: Planning review meeting with Department of State Division of Coastal Resources
- January 3, 2008: Waterfront reconnaissance of existing conditions and project opportunity areas with consulting engineer
- January 15, 2008: Planning meeting with City officials
- February 4, 2008: Planning meeting with City officials
- February 5, 2008: Waterfront reconnaissance to review project opportunity areas

In 2013, the City updated the City Code to establish a CAC (Chapter 159) to replace and fulfill the duties of the WAC. In 2014, the CAC, in coordination with City staff and the City's LWRP consultant's, made final edits and revisions to the LWRP.

Appendix A

LWRP Glossary

GLOSSARY OF LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) TERMS¹

Abandoned Vessel: Any vessel not moored, anchored, or made fast to the shore, and left unattended for a period greater than 24 hours; also, any vessel left upon private property without consent from the waterfront property owner for a period greater than 24 hours.

Accessory Marine Uses: Facilities or services associated with a marina and/or boatyard and including, but not limited to: fuel supply; boating equipment sales and rental; bait and tackle sale; provision of potable water; prepared food and groceries; marine supplies; disposal of marine wastes; parking for vehicles; and administration of marina and/or boatyard functions.

Accretion: The addition of new land to the shoreline through the action of natural forces depositing waterborne or airborne material or by reason of an act of man such as the accretion formed as a result of groin or breakwater construction, or beach fill deposited by mechanical means; also defined as the process of gradual and imperceptible addition to riparian land made by the water to which the land is contiguous.

Active Recreational Uses: Recreational uses generally requiring facilities and organization for participation and/or having a more significant impact on the natural environment than passive recreational uses.

Aids to Navigation: Generally, all markers, including buoys, beacons, or other fixed objects on land or in the water, placed for the purpose of marking obstructions to navigation or to direct navigation through safe channels; defined in the state Navigation Law as buoys, beacons or other fixed objects in the water which are used to mark obstructions to navigation or to direct navigation through safe channels. Aids to navigation include: a) federal aids placed and maintained by the U.S. Coast Guard; and b) "private" aids placed and maintained by all other government and private interests.

Anchorage: A non-channel water area specifically designated for the safe anchoring of vessels.

Anchoring: To secure a vessel temporarily to the bottom of a waterbody by employing an anchor which is removed from the bottom every time the vessel is underway.

Aquaculture: Cultivation or propagation of water-dwelling organisms, including finfish and shellfish.

Aquatic Environment: Waters of the United States, including wetlands that serve as habitat for interrelated, interacting communities and populations of plants and animals.

Aquifer: An underground geological formation, or group of formations, containing usable amounts of groundwater and capable of yielding considerable quantities of water to wells and springs.

Avulsion: The loss of lands, such as those bordering on the seashore, by sudden or violent action of the elements, perceptible while in progress.

A-Zone: That portion of the coastal floodplain, as marked on maps prepared by the Federal Emergency Management Agency, likely to be inundated by the one-percent ("100-year") flood and not subject to wave action.

¹ *The definitions included in the glossary are for the purpose of the Newburgh Local Waterfront Revitalization Program. The meaning and use of the included terms may differ in State and federal laws and regulations.*

Bathymetry: The measurement of depths of water in oceans, seas, and lakes; also information derived from such measurements.

Beach: The zone of unconsolidated material, including a foreshore and backshore that extends landward from the low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation (usually the effective limit of storm waves). The seaward limit of a beach is the mean low water line.

Beach Nourishment: Natural or artificial placement of material, usually sand and sometimes including suitable dredged material, on or near a beach for the purpose of expanding an existing beach or replenishing an eroding beach.

Benthic: That portion of the marine environment inhabited by marine organisms that live permanently in or on the bottom of the sea.

Benthos: All marine plant and animal organisms living on or in the bottom of the sea.

Berth: An in-water area typically defined by floating walkways and finger floats, the purpose of which is to provide wet storage space for a vessel.

Best Management Practices (BMPs): Regulatory, structural, or nonstructural techniques applied to prevent and reduce non-point source pollution. Some examples of BMPs are buffers of streamside vegetation to keep pollutants from entering a watercourse; improved management of livestock areas to reduce polluted runoff; construction of wetlands to act as natural filters; and better maintenance of lawns and septic systems.

Bioaccumulation: The uptake of substances (metals, for example) leading to elevated concentrations of those substances within plant or animal tissue.

Bioassay: A test whereby living organisms are used to measure the effect of a substance, factor, or condition through comparison of “before and after” data; determination of the concentration of a substance in the tissues of an organ or organism in this manner is often used to test the toxicity of sediments and water that may be contaminated with toxic substances.

Biochemical Oxygen Demand (BOD): A measure of the demand on a water body's dissolved oxygen supply that will be generated, over a specified time period, by the biological decomposition of organic material.

Bioconcentration: The concentration of contaminants by an aquatic organism through its digestive tract or gill tissues.

Biotic Community: A naturally occurring assemblage of plants and animals that live in the same environment and are mutually sustaining and interdependent.

Boat Basin: A naturally or artificially enclosed or nearly enclosed harbor area for small craft.

Boatyard: A water dependent facility, the main function of which is the repair and servicing of vessels and related services, and generally including facilities for on-land boat storage. Boatyard facilities are often operated in conjunction with marina facilities.

Breakwater: A structure protecting a shore area, harbor, anchorage or boat basin from waves; defined in the state Navigation Law as a structure located within the shoreline of a body of water for the purpose of providing protection from wind and wave action.

Bulkhead: A vertical wall of wood, steel, or concrete built parallel to the shoreline; designed to control erosion and deflect waves; and which may also function as a retaining wall for fill material placed behind it.

Buoy: A float; especially a floating object moored to the bottom of a waterbody to mark a channel, mooring location, restricted speed area, or the location of something beneath the surface of the water such as a rock or shoal.

Carrying Capacity: A term generally used to refer to the level of use or extent of modification that environmental or man-made resources may bear without the occurrence of unacceptable resource deterioration or degradation.

Channel: A natural or maintained (dredged) waterway shown on navigation charts and marked in-water by aids to navigation, specifically designated for unobstructed movement of vessels, including federal navigation channels maintained by the U.S. Army Corps of Engineers (USACE).

Clean Vessel Act: Federal legislation intended to reduce overboard discharge of sewage from recreational boats and providing funds for the construction, renovation, operation, and maintenance of vessel waste pump-out stations for holding tanks and dump stations for portable toilets.

Clean Vessel Act Program: New York's program to implement the goals of the Clean Vessel Act and through which federal funds for the purpose of the Act are distributed.

Coastal Area: The area defined by the State of New York in Article 42 of the New York Executive Law within which the provisions of local waterfront revitalization programs apply, and including coastal waters of the State of New York and the adjacent shorelands, to the extent such coastal waters and adjacent lands are strongly influenced by each other.

Coastal Resources: Natural and man-made resources within the coastal area of the State of New York, including, but not limited to, coastal waters, underwater lands, wetlands, estuaries, intertidal flats, fish and wildlife habitat areas, beaches, developed shorelines and historic/archaeologic sites.

Coliform Bacteria: Widely distributed microorganisms found in the intestinal tracts of humans and other warm-blooded animals and used as an indicator of the sanitary quality of water.

Combined Sewer Overflows (CSOs): Discharges from a sewerage system that carries both sanitary sewage and stormwater runoff. Normally, combined sewers carry all wastewater to a treatment facility. During storm events, however, stormwater volume may be so great as to cause overflows. When this happens, untreated mixtures of stormwater and sanitary sewage may flow into receiving waters.

Commerce Power: The federal authority, established by the commerce clause of the U.S. Constitution, whereby the Congress has exclusive powers over interstate commerce and therefore jurisdiction over all navigable waters of the United States.

Commercial Mooring: A mooring defined by the USACE for which any type of fee is charged (excepting any fee charged by a municipality for a locally-issued mooring permit) and which must be authorized by a permit from the USACE. Commercial moorings include moorings offered by marinas for transient or seasonal rental, and moorings controlled by private clubs if the annual membership fee enables use of a club-controlled mooring.

Commercial Vessel: Any vessel, licensed or unlicensed, used or engaged for any type of commercial venture, including but not limited to the carrying of cargo and/or passengers for hire and commercial fishing.

Comprehensive Harbor Management Plan: A plan, defined in Article 42 of the New York Executive Law, to address the problems of conflict, congestion, and competition for space in the use of harbors, surface waters, and underwater lands of the state within a city, town, or village or abounding a city, town, or village to a distance of 1,500 feet from shore. A harbor management plan must consider regional needs and, where applicable, must consider the competing needs of commercial shipping and recreational boating, commercial and recreational fishing and shellfishing, aquaculture and waste management, mineral extraction, dredging, public access, recreation, habitat and other natural resource protection, water quality, open space, and aesthetic values, and common law riparian or littoral rights and the public interest in such lands underwater.

Confined Disposal Facility: A diked area, either in-water or upland, used to contain dredged material. The terms confined disposal facility, dredged material containment area, diked disposal facility and confined disposal area are used interchangeably.

Contaminant: A chemical or biological substance in a form that can be incorporated into, onto or be ingested by and that harms aquatic organisms, consumers of aquatic organisms, or users of the aquatic environment. A contaminant that causes actual harm is sometimes referred to as a pollutant. (See Pollutant.)

Controlling Depth: The least depth in the navigable parts of a waterway, governing the maximum draft of vessels that can safely use that waterway.

Corps of Engineers (USACE): The U.S. Army Corps of Engineers which is one of the principal federal agencies with responsibilities and authorities affecting the Newburgh Harbor Management Area, including authority to regulate structures and work seaward of the mean high water line as well as responsibility to maintain federal navigation and shore protection projects.

Cultural Resources: Natural and man-made resources related to open space, natural beauty, scientific study, outdoor education, archaeological and historic sites and recreation.

Cumulative Impacts: The impacts on environmental or man-made resources that result from the incremental impact of an action when added to other past, present and reasonably foreseeable actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Dissolved Oxygen (DO): The oxygen, vital to fish and other aquatic life, freely available in water. Traditionally, the level of dissolved oxygen has been accepted as the single most important indicator of a water body's ability to support beneficial aquatic life. Secondary and advanced waste treatment processes are generally designed to protect DO in waste-receiving waters.

Dock: A structure that can be used as a landing or berthing space for a vessel or vessels; defined in the state Navigation Law as a wharf or portion of a wharf extending along the shoreline and generally connected to the upland throughout its length. Docks may float upon the water or be fixed structures abutting the shoreline.

Dockminium: A marina development and operation concept whereby the user of a boat slip or berth purchases fee simple title to the use of that slip or berth.

Dolphin: A cluster of piles, bound firmly together and driven into the bottom of a harbor, to which boats may be secured.

Discharge of Dredged Material: Any addition of dredged material into waters of the United States. Dredged material discharges include: open water discharges; discharges resulting from unconfined disposal operations (such as beach nourishment or other beneficial uses); discharges (such as effluent, surface runoff, or leachate) from confined disposal facilities which enter waters of the United States; and overflow from dredge hoppers, scows, or other transport vessels.

Disposal Site: An in-water or upland location where specific dredged material disposal activities are permitted.

Dredged Material: Material that is excavated or dredged from waters of the United States.

Dredging: The excavation of sediments and other material from aquatic areas for the purpose of maintaining adequate depths in navigation channels and berthing areas, as well as for other purposes.

Dump Station: A facility designed to receive sewage from portable toilets carried on vessels; dump stations do not include lavatories or restrooms.

Ebb Current: Tidal current directed away from shore or down a tidal watercourse; usually associated with decrease in the height of the tide.

Ebb Tide: A falling tide; the period of tide between high water and the succeeding low water.

Ecosystem: The interacting system consisting of a biologic community and its nonliving environment, each influencing the properties of the other and both necessary for the maintenance of life.

Effluent: Treated or untreated wastewater that flows out of a wastewater treatment plant, sewer, industrial outfall, marine sanitation device, or other source; generally refers to wastes discharged into surface waters.

Emergency: A state of imminent or proximate danger to life and property.

Erosion: The wearing away of the shoreline by the action of natural forces such as wave action and tidal currents and as a result of man-made forces.

Estuary: A semi-confined coastal water body with an open connection to the sea and a measurable quantity of salt in its waters. Estuaries are of particular ecological value and significance because they provide important natural values concerning, for example, fish and wildlife habitat, flood protection, and maintenance of water quality.

Eutrophication: The process through which overabundant plant life, nurtured by excessive nutrients such as nitrogen and phosphorus, causes hypoxia, depriving fish and shellfish of oxygen and underwater grasses of light.

Excursion Vessel: A vessel providing sight-seeing tours available to the general public.

Fairway: A specific water area, kept free of obstructions, to ensure safe passage of recreational and commercial vessels to, from, through, and alongside navigation channels, mooring areas, anchorages and berthing areas.

Fecal Coliform Bacteria: Specific coliform bacteria associated with the digestive tract of warm-blooded animals.

Federal Navigation Project: Authorized by Acts of Congress (or by the Secretary of the Army in accordance with Section 107 of the River and Harbor Act of 1960) and maintained by the USACE, federal navigation projects may consist of designated channels and anchorages as well as dikes, breakwaters and jetties designed to maintain ease and safety of navigation.

Filling: The act of adding or depositing material to replace a wetland or aquatic area with dry land or to change the bottom elevation of a water body.

Fill Material: Any material used for the primary purpose of replacing an aquatic area with dry land or changing the bottom elevation of a water body for any purpose. The term does not include any pollutant discharged into the water primarily to dispose of waste. Dredged material can be used as fill material.

Finfish: Term used to distinguish fish with fins from shellfish.

Float: Any structure, buoyant on the water surface, extending seaward, and affixed and secured in place to the shore, a bulkhead, or a dock, whose purpose is to berth and secure vessels and provide a means of access to and from the shore; a floating dock.

Floatable Debris: Trash floating in coastal waters or washed upon the shore and which may reduce beneficial use and enjoyment of a waterbody, present a nuisance or hazard for boaters and harm wildlife.

Floating Home: Any structure constructed on a raft, barge or hull, moored or docked, and that is used primarily for single or multiple-family habitation or as the domicile of any individual(s), and is therefore not water dependent as defined in the New York Executive Law.

Floating Objects: Defined in the state Navigation Law as any anchored marker or platform floating on the surface of the water other than aids to navigation and including but not limited to bathing beach markers, speed zone markers, information markers, swimming or diving floats, mooring buoys, fishing buoys and ski jumps.

Flood/Flooding: A general and temporary condition of: 1) partial or complete inundation of normally dry land resulting from the overflow of inland and/or coastal waters; and/or 2) the unusual accumulation of waters from any source.

Flood Current: The tidal current toward shore or up a tidal water body and associated with the increase in the height of a tide.

Flood Insurance Rate Map (FIRM): An official map of a community prepared by the Federal Emergency Management Agency identifying the elevation of the "100-year" flood and the areas that would be inundated by that level of flooding, and used to determine flood insurance rates.

Flood Insurance Study (FIS): An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain: Land of low elevation adjoining the channel of a river, stream, watercourse, or other body of water, which has been or may be inundated by flood water, and those other areas, including coastal areas, subject to flooding.

Flood Risk: The probability of being flooded.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The floodway is intended to carry the deep and fast-moving flood water. Normally the base flood is defined as the “100-year” flood, and the designated height is one foot above the prefloodway condition.

Food Chain: A sequence of organisms in any natural community through which energy is transferred, each of which uses the lower member of the sequence as a food source, with plants being the ultimate basis of the sequence.

Food Web: The inter-related food relationships in an ecosystem including its production, consumption, and decomposition and the energy relationships among the organisms involved in the energy transfer cycle.

Freshwater: Inland waters, including runoff from precipitation and melting snow; waters that contain little or no salt; a term technically applied to water with salinity less than 0.5 parts per thousand.

Freshwater Wetlands: Wetlands subject to regulatory authority of the State of New York pursuant to Article 24 of the Environmental Conservation Law (The Freshwater Wetlands Act) and shown on maps prepared by the New York State Department of Environmental Conservation. Freshwater wetlands perform a variety of ecologically important functions, including functions related to maintaining and improving water quality, as well as providing important fish and wildlife habitat.

General Permit: A type of permit issued by the USACE for structures and work subject to the Section 10 and 404 regulatory programs. A general permit is an authorization issued on a nationwide or regional basis for categories of activities judged to be substantially similar in nature and to cause only minimal individual and cumulative adverse environmental impacts.

Geographic Information System (GIS): A computerized data base of land use, land cover and other types of information referenced to a location; enabling statistical analysis, comparison, and display of large quantities of data for planning purposes, including analysis of the relationship of land use to water quality.

Geomorphology: The science that applies the principles of physiography and geology to address the form and configuration of the land and submarine features of the earth's surface and the changes that take place in the evolution of landform.

Gray Water: Defined in the state Navigation Law as wastewater generated by water-using fixtures other than toilets, including but not limited to baths, sinks and laundry facilities used on residential vessels.

Greenbelt: A linked system of natural areas along the shoreline of a watercourse or body of water, often including public easements, open space land and public access walkways. A greenbelt typically provides a natural, protective buffer area between the upland and aquatic area, conserves valuable natural resources and may provide opportunities for passive recreational use.

Groin: A shore protection structure usually built perpendicular to the shoreline and intended to trap littoral drift or reduce erosion of the shore.

Groundwater: The supply of freshwater found beneath the earth's surface (usually in aquifers) which is often used for supplying wells and springs.

Habitat: The place where a human, animal, plant, or microorganism population lives, and the living and nonliving characteristics, conditions, and surroundings of that place.

Harbor: Any protected water area affording a place of safety for vessels.

Harbor Commission: A local commission that may be established, pursuant to authority provided by the New York Home Rule Law, and charged with specific responsibilities for managing a municipality's harbor facilities and resources, subject to the direction of the local legislative body.

Harbor Management Law: A local law to regulate the use and operation of vessels and the conduct of water-based activities within municipal jurisdiction for the purpose of protecting and promoting the public health, safety, and general welfare. A municipality may adopt a harbor management law pursuant to authority provided by the Home Rule Law, Section 46a of the state Navigation Law, and Article 42 of the New York Executive Law. A harbor management law may establish a "vessel regulation zone" within which a municipality may regulate certain activities on any waters within or bounding the municipality to a distance of 1,500 feet from the shore.

Harbormaster: A local official who may be appointed in accordance with authority provided by the New York Home Rule Law, and charged with responsibilities for overseeing the safe and efficient operation of the harbor and/or waterways within the local jurisdiction. Harbormaster responsibilities in New York communities generally include administration of mooring placement, management of public boating facilities, and assistance to local law enforcement agencies in the identification of violations and enforcement of State and local boating laws at the direction of a local board or commission.

Hazard to Navigation: Any obstruction, usually sunken, that presents a sufficient danger to navigation so as to require expeditious, affirmative action such as marking, removal or redefinition of a designated waterway to provide for navigation safety.

Head Boat: A commercial excursion vessel that may be chartered for group events but more commonly serves individuals or small groups, and typically having a draft ranging from three to seven feet and a maximum capacity of 30 to 85 persons.

Heavy Metals: Metallic elements of high molecular weight, including mercury, chromium, cadmium, arsenic, and lead, and generally toxic to plant and animal life in low concentrations. Such metals are often residual in the environment and exhibit bioaccumulation.

High Tide Line: The line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide. The term includes spring high tides and other high tides that occur with periodic frequency, but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm. The high tide line is a higher elevation than the mean high water line.

High Water Line: The intersection of the plane of mean high water with the shore; the shoreline delineated on nautical charts prepared by the National Ocean Service is an approximation of the high water line.

Houseboat: A boat, barge or other craft equipped for use primarily as a dwelling, as opposed for use primarily for transportation over water.

Hydraulic Dredging: One of the two primary dredging techniques (distinguished from mechanical dredging) utilizing suction dredging of sediments; the two primary types of hydraulic dredges are the cutterhead pipeline dredge and the self-propelled hopper dredge. The cutterhead dredge has a powerful pumping system that vacuums up the sediment and pumps it through discharge pipes either directly to the disposal

site or onto barges for disposal at designated sites. This dredging method is used quite often in areas requiring constant maintenance. The self-propelled hopper dredge also uses a vacuum suction technique and deposits the material directly into the hoppers on board a self-propelled vessel which can then move to the disposal site for discharge.

Hydraulics: The science dealing with the practical applications (such as the effects of flow and the transfer of energy) of water or other liquids in motion.

Hydrocarbons: An organic compound consisting solely of hydrogen and carbon. Petroleum is a mixture of many hydrocarbon compounds.

Hydrology: The science dealing with the properties, distribution, and circulation of water on the surface of the land, below the surface, and in the atmosphere, particularly with respect to precipitation and evaporation.

Hypoxia: A condition of degraded water quality characterized by reduced oxygen concentrations.

Individual Permit: A type of permit issued by the USACE for structures and work subject to the Section 10 and 404 regulatory programs. An individual permit is issued following evaluation of a specific proposal and involves public notice of the proposed activity, review of comments and, if necessary, a public hearing. In general, an individual permit must be received from the Corps for most activities that involve: a) filling of wetlands and navigable waters; b) placement of structures in navigable waters; and c) dredging and disposal of dredged material.

Individual-Private Mooring: A mooring belonging to an individual, as distinguished from a commercial mooring rented from a marina, controlled by a private club or used for commercial purposes. An individual-private mooring does not require an individual permit from the USACE.

Knot: The unit of speed used in navigation equal to one nautical mile (6,076.115 feet or 1,852 meters) per hour.

Land-Use: The character and condition of the use of land and which may be described in terms of general categories, such as "residential," "commercial," "industrial," and "open space," or with reference to the specific use or development of a specific site; also, a reference to the ways in which a community or area makes use of its natural resources.

Launching Ramp: A man-made or natural facility used for the launching and retrieval of boats; primarily providing facilities for boaters to launch trailered boats and park their vehicles and trailers while engaging in boating activities.

Live-Aboard Vessel: Any berthed, anchored, or moored vessel that is used as a temporary or permanent residence, secondary to the principal water dependent recreational or commercial use of that vessel.

Local Waterfront Revitalization Program (LWRP): Authorized by the Waterfront Revitalization of Coastal Areas and Inland Waterways Act, a local program prepared by a municipality and intended to: a) promote beneficial development enhanced by or dependent on waterfront resources; and b) balance this development with the protection of important coastal resources.

Maintenance Dredging: The generally periodic and repetitive removal of recurring, naturally deposited bottom sediment from an existing navigation channel or berthing area.

Mariculture: The cultivation of marine organisms in their natural habitats, usually for commercial purposes.

Marina: A water dependent facility, the main function of which is to provide boat dockage and related services for recreational vessels as a commercial enterprise or in association with a private club. Marina facilities are often operated in conjunction with boatyard facilities.

Marine-Commercial Use: A water-dependent use that serves as a marina, fuel dock, yacht club, barge or tanker terminal, boat rental or leasing facility, commercial fishing loading/off-loading facility, or as a structure designed to secure or make fast a vessel commercially operated.

Marine Facility: Any facility (including but not limited to docks, floats, piers, ramps, hoists, parking areas, concessions, and service facilities), either publicly or privately owned, intended primarily to be used by or for the service of vessels, and located in and adjacent to marine or tidal waters.

Marine Sanitation Device (MSD): Any equipment installed on board a vessel to receive, retain, treat, or discharge sewage, including: a Type I MSD which is a device where sewage is treated with disinfectant chemicals before it is discharged (the treated discharge must meet certain health standards for bacteria content and must not show visible floating solids); a Type II MSD which is similar to Type I but is required to produce an effluent with lower fecal coliform bacteria counts and suspended solids (usually installed only in larger recreational vessels greater than 65 feet due to size and power requirements); and a Type III MSD which is any equipment for installation on board a vessel which is specifically designed to receive, retain, and discharge sewage. Type III MSDs are certified to a no-discharge standard, and include re-circulating and incinerating MSDs and holding tanks. Sewage is stored in the holding tank (the most common Type III MSD) until it can be discharged to a vessel waste pump-out facility or at sea beyond the territorial waters of the U.S.

Marine Toilet: Defined in the state Navigation Law as any toilet on or within any watercraft, excepting those toilets that have been permanently sealed and made inoperative.

Mean High Water (MHW) Line: A tidal datum; the arithmetic mean of the high water heights observed over a specific 19-year Metonic cycle (the National Tidal Datum Epoch). Proposed work and structures seaward of the mean high water line are subject to federal regulatory authorities carried out by the USACE and to state and local regulatory authorities as well. In general, most land and water areas seaward of the mean high water line are subject to the Public Trust Doctrine. The mean high water line also marks the seaward boundary of the jurisdiction of a municipality's planning and zoning authorities.

Mean Low Water (MLW) Line: A tidal datum; the arithmetic mean of the low water heights observed over a specific 19-year Metonic cycle (the National Tidal Datum Epoch).

Mean Lower Low Water: A tidal datum; the arithmetic mean of lower low water heights of a mixed tide observed over a specific 19-year Metonic cycle (the National Tidal Datum Epoch). Only the lower low water of each pair of low waters, or the only low water of a tidal day is included in the mean. Federal navigation projects now reference the Mean Lower Low Water.

Mean Sea Level: A tidal datum; the arithmetic mean of hourly water elevations observed over a specific 19-year Metonic cycle (the National Tidal Datum Epoch). Shorter series, such as monthly sea level and yearly mean sea level, may be specified.

Mechanical Dredging: One of the two primary dredging techniques (distinguished from hydraulic dredging) which utilizes mechanical methods of excavating dredged material such as buckets (clam-shell) and backhoes. Material removed by mechanical dredging may be deposited on barges that are towed to designated disposal sites. Advantages of this process include the ability to remove a wide range of materials, work in tight areas, and more efficiently excavate contaminated material.

Metals: Metallic elements that can cause harm to living organisms and can accumulate in the food chain. Often divided into common metals (e.g., zinc, iron, copper) and trace metals (e.g., chromium, cadmium, arsenic).

Mitigation: An action to lessen the severity of impact of another action, either natural or human. Mitigation may refer to an action taken to reduce or eliminate the risk to human life and property and the negative impacts that can be caused by flooding and other natural and technological hazards. Mitigation may also refer to actions designed to lessen the adverse impacts of proposed development activities on natural and cultural resources, including wetlands and water resources.

Modeling: An investigative technique using a mathematical or physical representation of a system or theory, often to test the effect of changes of system components on the overall performance of the system, and often applied to address water quality and shoreline change questions.

Monitoring: Periodic or continuous surveillance or testing to determine the level of compliance with statutory requirements and/or pollutant levels in various media or in humans, animals, and other living things.

Moor: To secure a vessel to the bottom of a waterbody by the use of mooring tackle which includes an anchor that remains in position on the bottom while the vessel is underway.

Moorings: The place where, or the object to which, a vessel can be made fast by means of mooring tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator. Vessels may be secured at or with “fore and aft” moorings or a single, “free-swinging” mooring. Moorings are sometimes referred to locally as “permanent moorings.”

Moorings Area: A designated water area within which vessels may moor.

Moorings Pile: A pole or post secured to the underwater lands, protruding above the water surface, the sole purpose of which is to secure a vessel.

Moorings Tackle: The ground tackle/hardware (e.g., anchor, chain, cable) used to secure a vessel at a mooring.

National Estuary Program: The program established by the Federal Clean Water Act to identify nationally significant estuaries and to establish and oversee a process for improving and protecting their water quality and enhancing their living resources.

National Geodetic Vertical Datum (NGVD): A fixed reference adopted as the standard datum of elevations throughout the U.S. For land-based vertical measurements, NGVD is usually given a value of 0.0 and all other points are measured according to their distance above or below. For navigation-related purposes, NGVD is not the most desirable datum, and MLW and MHW are usually assigned a value of 0.0 while still being measured in relation to NGVD.

National Flood Insurance Program (NFIP): A program established by the National Flood Insurance Act of 1968 to provide relief from the impacts of flood damages in the form of federally subsidized flood insurance available to participating communities; such insurance is contingent on the incorporation of nonstructural flood loss reduction measures into local floodplain management regulations.

National Pollution Discharge Elimination System (NPDES): The federal program established by the Federal Clean Water Act and implemented by the U.S. Environmental Protection Agency for limiting, through the issuance of permits, the amounts of listed point source pollutants that can be discharged into waters of the United States. In New York, responsibilities for administration and enforcement of the NPDES, in accordance with the provisions of the Clean Water Act, have been turned over to the Department of Environmental Conservation.

Natural Resource Values: The qualities of, or functions served by, natural resources such as wetlands, floodplains, and water resources. Natural resources values include but are not limited to: a) water resources values (including water quality maintenance and natural moderation of floods); b) living resource values (fish, wildlife, and plant habitats); and c) cultural resource values (including values related to open space, natural beauty, scientific study, outdoor education, archaeological and historic sites, and recreation).

Nautical Mile: A unit of nautical measurement accepted as 6,076.115 feet, approximately 1.15 times as long as the U.S. statute mile of 5,280 feet.

Navigable: Capable of being navigated or passed over by ships or vessels.

Navigable In Fact: A body of water navigable in its natural or unimproved condition, affording a channel for useful commerce of a substantial and permanent character conducted in the customary mode of trade and travel on water.

Navigable Waters of the State: Defined in the State Navigation Law as all lakes, rivers, streams and waters within the boundaries of the State of New York and not privately owned, which are navigable in fact or upon which vessels are operated, except all tidewaters bordering on and lying within the boundaries of Nassau and Suffolk counties.

Navigable Waters of the United States: Those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Navigate: To go from one place to another by water by sailing or managing a boat; to use a waterbody as a highway for commercial, recreational, educational, or other purposes.

Navigation: The act, science, or business of traversing the sea or other navigable waters in ships or vessels.

Navigation Servitude: The public right of navigation for the use of the people at large. Any property right dependent for its exercise or value on the presence of navigable waters is subject to a defect of title, called a servitude, originating from an ancient common law principle whereby there is a right of way of the public to use a stream or other water body for navigation despite the private ownership of the bed or bank. Hence, in exercise of Congress' power over navigation stemming from the Commerce clause of the Constitution, no further federal real estate interest is required for navigation projects in navigable waters below the ordinary high water mark.

Neap Tide: A tide of minimum extent occurring at the first and third quarters of the moon (compare with Spring Tide).

New York Coastal Management Program (CMP): The program administered by the New York Department of State and authorized by the New York Waterfront Revitalization of Coastal Areas and Inland Waterways Act which enables the state to manage its coastal resources pursuant to the provisions of the Federal Coastal Zone Management Act. The CMP covers the shores of lakes Erie and Ontario, the Niagara and St. Lawrence

rivers, the tidal portion of the Hudson River, New York City, Long Island and Long Island Sound. The CMP establishes 44 management policies to carry out the legislative intent that a balance be established between economic development and coastal resource protection in the state's coastal area.

New York State Department of State (DOS), Division of Coastal Resources: The State agency responsible for administration of the New York Coastal Management Program (CMP), and which coordinates a number of programs essential to implementation of the Coastal Program. Major responsibilities and interests of the DOS Division of Coastal Resources include review of proposed development activities for consistency with the CMP, designation of Significant Coastal Fish and Wildlife Habitat Areas, assistance to municipalities for preparation of LWRPs and provision of planning and funding assistance for special projects.

Nitrate: A compound containing nitrogen and oxygen (NO_3) that can exist in the atmosphere or in water and that can have harmful effects on humans and animals.

Nitrification: The biochemical process in which specific bacteria convert ammonia and organic nitrogen to nitrate. In wastewater treatment plants, ammonia and organic nitrogen come from human wastes and dead plant and animal matter. The nitrifying bacteria are cultured for use at the plants to convert ammonia to nitrite and nitrate. Nitrification occurs naturally in wetland ecosystems and can be established in wastewater treatment plants to remove ammonia and nitrogen from wastewater.

Nitrogen: An element present as organic nitrogen or in inorganic forms of ammonia, nitrite, and nitrate. The inorganic forms are preferentially used by phytoplankton to support their growth. Organic nitrogen is bound with organic material and is not available for plant growth until released in a usable inorganic form by decay processes.

No Discharge Zone: An area designated by the U.S. Environmental Protection Agency within which no sewage, untreated or treated, may be discharged from any vessel. An area particularly sensitive to contamination and that will benefit from a complete prohibition of all vessel sewage discharges may be designated by the EPA upon application by a state, contingent upon the certification by the state that adequate and reasonably available vessel waste pump-out facilities exist for boaters to use.

Non-point Source (NPS) Pollution: Pollution that does not originate from a single, easy-to-identify "point" source such as a sewage treatment plant or industrial discharge pipe. Types of NPS pollution include stormwater runoff from roads, parking lots and backyards, as well as wet and dry atmospheric deposition. Precipitation can carry pollutants from the air to the ground and then gather more pollutants as the water runs off pavement and land to the nearest waterway.

Nonstructural Flood Protection Measures: Planning, regulatory, and other techniques intended to discourage or avoid dangerous, uneconomic, or unwise use of floodplains and erosion-prone areas. Nonstructural flood protection measures are distinguished from the more traditional "structural" measures (such as dams, dikes, and seawalls) used to control flooding and erosion.

Nutrient: Any substance assimilated by living things that promotes growth, including any number of organic or inorganic compounds (nitrogen and phosphorous are important examples) used by plants in primary production.

Obstruction to Navigation: Anything that restricts, endangers, or interferes with navigation.

"100-Year" Flood: A term commonly used to refer to a flood of the magnitude that has a one-percent chance of being equaled or exceeded in any given year. The "100-year" flood is the flood that is equaled or exceeded once in 100 years on the average, but the term should not be taken literally as there is no guarantee that the

“100-year” flood will occur at all within the 100-year period or that it will not recur several times. The “100-year” flood is the standard most commonly used for floodplain management and regulatory purposes in the United States, and is therefore often referred to as the “base flood” for floodplain management purposes.

Open To All On Equal Terms: A policy of the USACE whereby federal navigation projects, which must be managed in the general public interest, must be accessible and available to all on equal terms, and all citizens desiring mooring or other access to projects must be treated impartially.

Open Water Disposal: Placement of dredged material in rivers, lakes or estuaries via pipeline or surface release from hopper dredges or barges; distinguished from upland and ocean disposal.

Ordinary High Water Mark: The line on shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris or other appropriate means that consider the characteristics of the surrounding areas.

Outfall: A structure (e.g., pipe) extending into a body of water for the purpose of discharging wastewater, stormwater runoff or cooling water.

Passive Recreational Use: Recreational activities, such as hiking, walking, picnicking, canoeing, and fishing, generally not requiring facilities and organization for participation and/or having little significant impact on the natural environment.

Pathogen: Microorganisms that can cause disease in other organisms or in humans, animals, and plants. Pathogens may be bacteria, viruses, or parasites transported in sewage and runoff from agricultural and other areas.

Personal Watercraft: A vessel propelled by machinery and that satisfies one or both of the following criteria: a) has a width not greater than 24 inches; 2) is capable of carrying at least one individual who while operating the vessel has no means of steerage other than shifting his or her body weight.

Pier: Generally, a structure, usually of open construction, extending out into the water from the shore to serve as a vessel landing place or recreational facility rather than to afford coastal protection; defined in the state Navigation Law as a wharf or portion of a wharf extending from the shoreline with water on both sides.

Pile: A long, heavy timber or section of concrete or metal to be driven or jetted into the earth or seabed to serve as a support or protection.

Plane Datum: Also called vertical datum, the horizontal plane to which soundings, ground elevations, or water surface elevations are referred. The plane is called a tidal datum when defined by a certain phase of the tide. A common datum used on topographic maps is based on mean sea level. To provide a safety factor for navigation, some level lower than mean sea level (such as mean low water or mean lower low water) is generally selected for use on hydrographic charts.

Point Source Pollution: Any discernable confined or discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, vessel or other floating craft, from which pollutants are or may be discharged.

Pollutant: Generally, any substance introduced into the environment that adversely affects the health of plants and animals or the usefulness of a resource, and including toxic substances, nutrients and pathogens which adversely affect water quality.

Pollution: The man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of an aquatic ecosystem. (See Contaminant.)

Polynuclear Aromatic Hydrocarbons (PAHs): A group of petroleum-derived hydrocarbon compounds that are found in the water and in the tissue of aquatic organisms. PAHs have a tendency to bioaccumulate and many are known or suspected carcinogens; PAH loadings to a waterbody result from oil spills and other uncontrolled discharges of petroleum products.

Port: A place where vessels may discharge or receive cargo; it may be the entire harbor including its approaches and anchorages, or only the commercial part of a harbor where marine service facilities and docks, wharves and facilities for transfer of cargo are located.

Private Club: A water-dependent facility supporting recreational boating activities; restricted to the use of members and guests and therefore not open to the general public.

Public Access: Physical and/or visual access to marine or tidal waters that is available to all members of the general public and therefore not limited to any particular groups or individuals.

Public Trust Doctrine: The doctrine based on the common law principle that certain lands and waters are so important to the public that private ownership or other impediments to public uses should not be permitted.

Pump-out Station: A marine facility for pumping or receiving sewage from a Type III marine sanitation device installed on a vessel and then containing that waste before proper disposal into a sewage disposal system.

Ramp: A structure used to gain access from a bulkhead, fixed dock, or platform to a float; also, a uniformly sloping surface used for launching small craft.

Recreational Boating Facilities: Facilities for the support of recreational boating activities, including marina and boatyard facilities and private clubs providing docks, slips, moorings and launching ramps as well as sales, repair, service, and storage facilities, and private docking facilities constructed by waterfront property owners.

Reliction: A gradual increase of land as a result of the permanent recession of a body of water.

Revetment: A facing of stone, concrete, or other hard material, built to protect a scarp, embankment or shore structure against erosion by wave action or currents.

Riparian: Of or relating to or living or located on the bank of a watercourse.

Riparian Ecosystems: Distinct associations of soil, flora, and fauna occurring along a river, stream, or other body of water and dependent for survival on a periodically high water table.

Riparian/Littoral Rights: The rights of an owner of land contiguous to a body of water. If the water in question is flowing (e.g., river or stream) the rights are said to be riparian. If the property is subject to the ebb and flow of the tide, the rights are said to be littoral rights. The terms "riparian" and "littoral" are commonly used interchangeably. Riparian rights may be defined as principally the right of access to the water, the right of accretions and relictions and the right to all useful purposes to which the watercourse may be applied.

Riprap: A protective layer or facing of stone, usually well-graded and randomly placed to prevent erosion, scour, or sloughing of the shoreline; also the stone so used.

Rubble-mound Structure: A shore protection structure of random-shaped and random-placed stones protected with a cover layer of selected stones or specially shaped concrete armor units.

Runoff: That part of precipitation, snow melt, or irrigation water that runs off the land into streams or other surface water and can carry pollutants from the air and land into the receiving body of water.

Salinity: The measure of the quantity of dissolved salts in seawater; defined as the total amount of dissolved solids in seawater once the organic matter has been completely oxidized.

Sand: Material, larger than silt, consisting of particles with a grain size between 1/16 mm and 2 mm.

Sanitary Sewer: A system of pipes, usually underground, that carry only wastewater, not stormwater.

Seawall: A wall built parallel to the shore, and designed to halt shoreline erosion by absorbing the impact of waves.

Section 10 and 404 Regulatory Programs: The principal federal regulatory programs, carried out by the USACE, affecting structures and other work below the mean high water line. The USACE, under Section 10 of the River and Harbor Act of 1899, regulates structures in, or affecting, navigable waters of the United States, as well as excavation or deposition of materials (e.g., dredging or filling) in navigable waters. Under Section 404 of the Federal Water Pollution Control Act Amendments (Clean Water Act of 1977), the USACE is also responsible for evaluating applications for Department of the Army permits for any activities that involve the placement of dredged or fill material into waters of the U.S., including adjacent wetlands.

Sediment: Particulate material, both mineral and organic, that is in suspension, being transported, or has been moved from its site of origin by the forces of air, water, gravity or ice, including material deposited in a loose, unconsolidated form on the bottom of a water body. The term dredged material refers to material that has been dredged from a water body, while the term sediment refers to material in a water body prior to dredging.

Sedimentation: The process of transportation and deposition of particles onto the bottom of a body of water.

Semidiurnal Tide: A tide with two high and two low waters in a tidal day with comparatively little diurnal inequality.

Septic Tank: A watertight chamber used for the settling, stabilizing and anaerobic decomposition of sewage.

Sewage: The combination of human and household waste with water which is discharged to the home plumbing system including the waste from a flush toilet, bath, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any other fixture, equipment, or machine, together with such groundwater infiltration and surface water as may be present.

Sewer: A system of pipes, usually underground, that carries wastewater and/or stormwater runoff from the source to a treatment plant or receiving body of water. Sanitary sewers carry household, industrial, and commercial waste; storm sewers carry runoff from rain and melting snow; combined sewers are used for both purposes.

Sheet Pile: A pile with a generally slender, flat cross section to be driven into the ground or seabed and meshed or interlocked with like members to form a bulkhead or seawall.

Shellfish: An invertebrate having a rigid outer covering, such as a shell or exoskeleton; includes oysters, scallops, hard clams, soft clams, razor clams, crabs, shrimp, all kinds of mussels, skimmer or surf clams, periwinkles and conch.

Significant Coastal Fish and Wildlife Habitat Area: An area designated by the New York State Department of State to help protect especially valuable fish and wildlife habitat. Any future proposal that would affect a designated area will require careful review and be subject to specific requirements designed to reduce adverse impacts on fish and wildlife habitat.

Shoal: A detached elevation of the bottom of a waterbody, comprised of material that is not rock, that may endanger surface navigation. Also, to become shallow gradually; to cause to become shallow; to proceed from a greater to a lesser depth.

Silt: Material of intermediate size between clay and sand material, and consisting of particles with a grain size between 1/16 mm and 1/128 mm.

Slack Tide: The state of a tidal current when its velocity is near zero, especially the moment when a reversing current changes direction and its velocity is zero; sometimes considered the intermediate period between ebb and flood currents.

Slip: The water area occupied by a vessel when secured to a shoreside or structural installation; also defined as a berthing space for a single vessel alongside a pier, finger float or walkway.

Spring Tide: A tide that occurs at or near the time of new or full moon and which rises highest and falls lowest from the mean sea level (compare with Neap Tide).

State Pollution Discharge Elimination System (SPDES): The program whereby the Department of Environmental Conservation regulates, with authority delegated by the U.S. Environmental Protection Agency pursuant to the Clean Water Act, all industrial, commercial and municipal discharges as well as discharges from residential subdivisions of five or more lots into surface and ground waters.

Storm Sewer: A system of pipes, generally underground, carrying only stormwater runoff from building and land surfaces; as distinguished from a sanitary sewer.

Storm Surge: A rise above normal water level on the open coast due to the action of wind stress on the water surface. Storm surge resulting from a hurricane also includes that rise in water level due to atmospheric pressure reduction and wind stress.

Stormwater Runoff: The rainwater, melting snow, and associated material draining from natural and developed surfaces in a watershed into storm drains and water courses.

Structural Flood Protection Measures: Engineered measures such as dams, dikes, levees, seawalls, and channel alterations designed to modify the volume and location of flooding and extent of erosion, intended to help protect lives and properties from the impacts of floods and erosion.

Sub-tidal Area: The coastal waters and submerged land seaward of the mean low water line.

Submerged Lands: Lands covered by water at any stage of the tide, as distinguished from tidelands which are attached to the mainland or an island and are covered and uncovered by the tide.

Subsurface Sewage Disposal System: A sewage disposal system designed to treat and dispose of septic tank or other treatment facility effluent by application of the effluent to a soil surface at a depth below the surface of the ground.

Tidal Cycle: Elapsed time between successive high and low waters.

Tidal Current: The alternating horizontal movement of water associated with the rise and fall of the tide caused by the astronomical tide-producing forces.

Tidal Prism: The volume of water entering an estuary during an incoming tide; in other words, the difference between the volume of water in an estuary at high tide and the volume of water at low tide.

Tidal Range: The difference between successive high and low waters; the period of comparison can range over a week, month, year, or other time period.

Tide: Periodic rise and fall of the ocean surface and connecting bodies of water resulting from the gravitational attraction of the moon and sun acting upon the rotating earth.

Tide Lands: Land between the lines of the ordinary high and low tides, covered and uncovered successively by the ebb and flood thereof; land covered and uncovered by the ordinary tides.

Tidewater: Waters, whether salt or fresh and usually of coves, bays and rivers and not the open sea, wherever the ebb and flood of the tide from the sea is felt.

Toxic Substances: Substances, both naturally occurring and derived from human sources, that cause adverse biological effects or health risks when their concentrations exceed a certain level in the environment. Toxic substances include heavy metals and organic chemicals such as chlorine, polychlorinated biphenyls (PCBs), polyaromatic hydrocarbons (PAHs) and pesticides.

Transient Boaters: Persons traveling to a harbor or marine facility by boat and staying for a temporary period of time.

Turbidity: A state of reduced clarity in a fluid caused by the presence of suspended matter.

Turning Basin: An area within or adjacent to a designated fairway, channel or anchorage which is used and reserved for the purpose of unobstructed passage and turning of vessels.

Unauthorized Encroachment: Any structure (including docks, piers, floats, piles, moorings, and other structures) and any other work (including dredging and filling) extending into navigable waters or into any other areas below the mean high water line without necessary local, State and federal approvals.

Underwater Lands: Land seaward of the last known location (prior to the placement of any fill) of the mean high water line and administered in the public interest in accordance with the Public Trust Doctrine.

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

Undocumented Vessel: Defined in the state Navigation Law as any vessel that is not required to have, and does not have, a valid marine document issued by the Federal Bureau of Customs.

Upland: Land lying above the ordinary high water mark.

Upland Disposal: Disposal of dredged material on upland sites where the material is contained in a manner such that it is isolated from the environment.

Vessel: Generally, every description of watercraft used or capable of being used as a means of transportation on water and specifically excluding floating homes. Defined in the state Navigation Law as any floating craft, excluding crew racing shells, and which shall be classified as either a public vessel or pleasure vessel.

Vessel Regulation Zone: Waters within or bounding a municipality to a distance of 1,500 feet from the shore and within which a municipality may regulate certain activities in accordance with authority provided by Section 46a of the state Navigation Law and Article 42 of the New York Executive Law. The governing body of a municipality may establish a vessel regulation zone and adopt, amend, and enforce local laws with respect to: a) regulating the speed and operation of vessels; b) restricting and regulating the anchoring or mooring of vessels; c) restricting and regulating garbage removal from vessels; and d) designating and regulating the use of public anchorage areas within the vessel regulation zone.

Vulnerability: Characterization of the nature and extent of damage that may occur during flooding.

Wastewater: Water that carries treated or untreated wastes, including dissolved or suspended solids, from homes, businesses, and industries.

Water Column: The water located vertically over a specific location on the sea floor.

Water-Dependent Use: An activity, defined in Article 42 of the New York State Executive Law, which can only be conducted on, in, over, or adjacent to a waterbody because such activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water.

Water-Enhanced Use: An activity, as defined by the New York State Department of State, which has no critical dependence on the waterfront, but the profitability of the use and/or the enjoyment level of the users are increased significantly because the use is adjacent to or has visual access to the waterfront.

Water Quality Certification: A State certification, pursuant to Section 401 of the Clean Water Act, that a proposed action, including an action to discharge dredged material, will comply with the applicable provisions of the Clean Water Act and relevant state laws.

Water Quality Standard: A law or regulation that consists of the beneficial designated use or uses of a water body, the numeric and narrative water quality criteria that are necessary to protect the use or uses of that particular water body, and an anti-degradation statement.

Water Resources Values: Natural values including those related to natural storage and conveyance of flood water, maintenance of water quality, and recharge of groundwater.

Waters of the United States: This term, as it applies to the jurisdictional limits of the authority of the USACE under the Clean Water Act, includes all navigable and interstate waters, their tributaries and adjacent wetlands, as well as isolated wetlands and lakes, and intermittent streams.

Watershed: A drainage area; the region or area contributing ultimately to the water supply of a particular watercourse or water body;

Wharf: A structure built on the shore of a harbor, channel or canal so that vessels may be secured alongside to receive and discharge cargo or passengers.

Appendix B

LWRP Condition Assessment (Halcrow Report)

City of Newburgh

City of Newburgh

Local Waterfront Revitalization Program

June 2007

Halcrow, Inc

City of Newburgh

City of Newburgh

Local Waterfront Revitalization Program

June 2007

Halcrow, Inc

Halcrow, Inc

22 Cortlandt Street, New York NY 10007 USA

Tel +608 4963 Fax +566 5059

www.halcrow.com

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City of Newburgh

City of Newburgh

Local Waterfront Revitalization Program

Contents Amendment Record

This report has been issued and amended as follows:

Issue	Revision	Description	Date	Approved by
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1 Introduction

1.1 *Location*

The city of Newburgh is located on the west bank of the Hudson River approximately 60 miles upstream from the New York inner harbour in Orange County. With relatively deep water immediately riverside of the shoreline, Newburgh's waterfront has been home to a variety of industries over the years.

The waterfront area covered in this report, defined as the "project area" is bounded to the north by the Newburgh-Beacon Bridge and to the south by the City's boundary with the Town of New Windsor, specifically the confluence of Quassaick Creek with the Hudson.

1.2 *Land Use*

The project area is a combination of marine industrial, public recreation, light industry and private residential.

1.3 *Objectives*

This condition assessment was based on visual observations, both from land and from the water and review of the Draft Local Waterfront Revitalization Program. It is intended that this assessment will provide guidance as to the general performance of the waterfront and identify areas for further investigation.

2 Existing Conditions

2.1

Overview

The waterfront is split into various sectors based on current land use, each with a range of waterfront structures; each of these sectors will be evaluated separately. The location of the Sectors is shown in Appendix A. The breakdown is as follows:

	LAND USE	PROTECTION STRUCTURES
Sector 1	Steel Style Shipyard facility	Riprap shore protection Concrete slab piers Concrete groins Stacked concrete rings
Sector 2	Brothers Memorial Rowing Park	Unprotected waterfront Concrete block bulkhead Riprap shore protection
Sector 3	City of Newburgh Wastewater Treatment Plant	Riprap shore protection
Sector 4	Disused city incinerator & Con-Ed site (former salvage/scrap yard)	Riprap shore protection General waterfront debris (old structures)
Sector 5	Public boat launch & floating restaurant	Steel sheetpile bulkhead Floating timber docks
Sector 6	Marina & commercial facilities	Floating docks protected by timber wave screen and flat-bottom barges Timber bulkhead Steel sheetpile bulkhead with timber fenders
Sector 7	Newburgh landing & waterfront park (incl. marina)	Floating docks Riprap shore protection Steel sheet piles (driven behind riprap) Remnants of old timber structures (possibly original bulkhead) Newburgh Ferry berth pier Various short timber access piers
Sector 8	Commercial & Regal Bag Company	General debris Old timber bulkhead Steel sheet pile bulkhead Timber bulkhead Riprap shore protection
Sector 9	Newburgh Yacht Club	Timber pile breakwater Steel sheet pile bulkhead Riprap/general debris
Sector 10	Pier Loun Development	Steel sheet pile bulkhead Timber docking facilities

2.2

Sector 1 Condition Assessment

The following pictures show typical details of the Sector 1 waterfront structures. The location of all the following features is shown in Appendix A.



1 - Riprap shore protection



2 - Concrete slab piers



3 - Concrete groins



4 - Stacked concrete rings

The riprap shore protection (1) around the mouth of the Quassaick Creek appears to be sufficient in controlling erosion; the amount of vegetation indicates a reasonably stable shoreline. Similarly, the stacked concrete slabs acting as a bulkhead (running parallel north of the creek) are heavily overgrown with vegetation indicating relative stability.

It should be noted that these structures are not in active erosion in their current state and under their current usage, however, removal of any vegetation could be detrimental to the stability.

Moving upstream along the Hudson, before reaching the southerly concrete slab pier, there appears to be a small beach formed between short concrete groins. There is a significant amount of debris, mainly tree trunks and other natural flotsam, again the amount of vegetation indicates that the shoreline is not in active erosion.

The two concrete slab piers (2) are being used as general storage and have a variety of vessels moored along side them, amongst which is the floating hospital. Although their overall stability is questionable, note the unevenness in picture 2 above, the risk of immediate failure under the current use appears to be minimal. Removal of the vegetation and/or significant static or dynamic loading is inadvisable however, given the unknown nature of the structure.

Continuing north of the piers the beach (3) is similar to previous with short concrete groins holding a small beach. The beach is littered with river debris (tree trunks) and also what appears to be an abandoned steel barge run up between the groins.

At this point the shoreline protrudes out into the Hudson, apparently held by loosely stacked concrete rings (4). Although the concrete rings are haphazardly placed with several either toppled or about to topple, the amount of stable vegetation behind the structure indicates that erosion of the frontage is not occurring.

2.3

Sector 2 Condition Assessment

The following pictures show typical details of the Sector 2 waterfront structures. The location of all the following features is shown in Appendix A.



5 – Unprotected waterfront



6 – Concrete block bulkhead

Despite the lack of protection along this area of waterfront (5), the shoreline does not appear to have suffered. There is debris such as tree trunks and old rubble along the sector, consistent with the entire project area; however this is not causing any damage to the shoreline.

A concrete block bulkhead (6) provides the Brothers Memorial Rowing Park with a launching area for their boats. Although the bulkhead is outflanking on either side, the erosion is not significant and unlikely to cause any detriment to the rowing facilities ability to function in the near future.

2.4

Sector 3 Condition Assessment

The following pictures show typical details of the Sector 3 waterfront structures. The location of all the following features is shown in Appendix A.



7 – Riprap shore protection

Generally, the riprap shore protection (7) through this sector is in good condition and is serving its purpose in protecting the wastewater treatment plant. The established vegetation above the riprap indicates stability. There is one area where the riprap appears to be compromised slightly; however it appears that this has been done purposely during installation of some metal pillars. This may become a weak point in the defences during a storm event and could provide a route for flooding in advance of the general defence elevation.

2.5

Sector 4 Condition Assessment

The following pictures show typical details of the Sector 4 waterfront structures. The location of all the following features is shown in Appendix A.



8 – Disused city incinerator



9 – General waterfront debris



10 – General waterfront debris

The majority of this sector is protected by an assortment of rubble, riprap and broken concrete (8) along with what appears to be a piece of broken steel decking or remnants of an old pier (10). There is also evidence of numerous hidden structures and debris in the waters immediately offshore (9). Despite the unappealing visual nature of the defences through this sector, they are serving the purpose of protecting the frontage.

The vegetation is very established and the riprap/broken concrete is interspersed with trees growing through it. There is an area north of the disused city incinerator where the shoreline appears to cut back. This section is not protected as heavily as the surrounding frontage; it is possible that this is eroding. However, it is also possible that this was a feature of the original reclamation of the site.

2.6

Sector 5 Condition Assessment

The following pictures show typical details of the Sector 5 waterfront structures. The location of all the following features is shown in Appendix A.



11 - Public boat launch



12 - Floating restaurant

The steel sheet pile bulkhead (11) supporting the public boat launch appears to be in very good condition and requires no further consideration in this study. The floating restaurant facilities (12) are temporary, i.e. not part of the permanent infrastructure, and therefore do not affect the condition assessment of the frontage.

From appearance, all of the floating timber docks appear in good condition and fit for purpose. However, it is noted that no hand rails are provided on the river side of the docks. If this area is open to the public then, for health and safety reasons, some form of barrier should be provided. It is assumed that the facility is removed during the winter months.

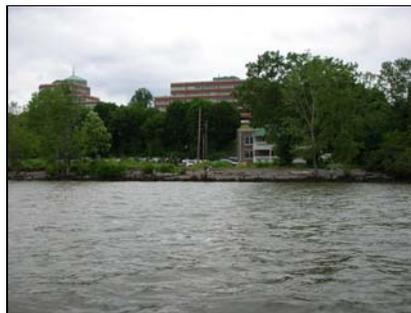
2.7

Sector 6 Condition Assessment

The following pictures show typical details of the Sector 6 waterfront structures. The location of all the following features is shown in Appendix A.



13 & 14 – Marina facilities



15 & 16 – Commercial & Recreation

There are two aspects to this frontage, the shoreline and the outer sections of the marina. The marina facility is protected by a timber pile supported wave screen (13) and two flat-bottom barges. By default of the vessels using the facility, it is concluded that the wave screen is providing adequate shelter from wave action in the river during summertime conditions. However the structure is missing a number of timber slats and it is assumed that the barges are there because of the wave screen’s limitations. It is assumed that all of these structures plus the boats moored in the marina are removed during winter.

The shoreline is protected by a number of different structures as follows, steel sheet pile bulkhead (LHS of picture 14), timber bulkhead (14), dilapidated timber bulkhead in front of unprotected bank (15) and steel sheet piles with timber pile fenders (16). Despite the unsightly nature of the defences, they appear to be providing sufficient protection to the shoreline for the land use. Even the unprotected section, where the old timber structure has almost completely failed, does not appear to be suffering detriment from erosion.

The only area of particular concern under the current land use is the steel sheet pile structure protected by timber pile fenders.



Due to the proximity of the building to the waterfront, further investigation of the structural integrity would be required before the true condition can be determined. It is assumed that remediation is needed due to the picture below showing some very poor repair work.

2.8

Sector 7 Condition Assessment

The following pictures show typical details of the Sector 7 waterfront structures. The location of all the following features is shown in Appendix A.



17 – Restaurant Marina



18 – City dock



19 – Torches Rest marina



20 – Newburgh waterfront park

Similar to the previous sector, there are two difference aspects to this area of frontage, the actual shoreline and then the marina facilities / docks and piers. Although the condition and amount of debris build-up varies, the frontage is very similar, riprap (or broken up concrete) revetment interspersed with steel sheet piles where there are outfalls or piers.

Generally the riprap is adequate in providing shoreline protection although much of it has been placed in such a poor method with sections of broken concrete that it looks very visually unappealing. There appears to be very little debris collection or maintenance along the frontage as well, which does not add to the landscaped appearance.

There are a couple of areas along the frontage where it is possible wash-out could occur through gaps in the riprap during storm conditions causing erosion of the Newburgh Waterfront Park path. Although it appears that debris damage is the most obvious risk to this frontage. Similar to much of the project area the vegetation along the top of the revetment is substantial indicating a reasonable degree of stability.

Although no detailed inspection of the outfalls, piers and docks was undertaken, there is no particular or obvious evidence of instability. Further investigation would determine structural integrity.

As before, it is assumed that all temporary and floating structures are removed from the water during winter.

2.9

Sector 8 Condition Assessment

The following pictures show typical details of the Sector 8 waterfront structures. The location of all the following features is shown in Appendix A.



21 & 22 – Commercial



23 & 24 – Regal bag company

There is a varied selection of shoreline protection structures along this frontage. Starting from the south end, there is a small concrete boat ramp (21) protected with riprap (this is the only area along this sector with riprap), then an area of unprotected frontage littered with river debris (mainly drift wood). Despite the lack of man-made defences, this section of shoreline does not appear to be actively eroding, although it can be seen in the plan view (Appendix A) that the undefended shoreline has cut back from the areas with bulkhead.

There is a very small length of dilapidated timber bulkhead and then approx. 50 yards of steel sheet piles (22) that are being outflanked on the north end. The old timber bulkhead continues in a worsened state until it is practically non-detectible before the Regal bag company site begins.

The Regal bag company frontage is characterised by timber bulkhead (23&24). The bulkhead appears to have been constructed (or repaired) at different times and in slightly different configurations. However, it is in good condition along its entirety with some areas appearing to be relatively new in construction. The depth of water is not known along this piece of frontage, but it is assumed to be sufficient for mooring delivery vessels for the bag company. The buildings and car parks are relatively close to the waterfront, which indicates that flooding is not a particular problem for the Regal bag company. The small drainage stone placed immediately behind the cap of an area of bulkhead (24) apparently used for recreation does not appear to have been compromised. However it is not know how long this drainage stone has been there, nor whether there have been any storms since its placement.

The timber bulkhead terminates perpendicular to the shoreline and is protected from outflanking by riprap.

2.10***Sector 9 Condition Assessment***

The following pictures show typical details of the Sector 9 waterfront structures. The location of all the following features is shown in Appendix A.



25 – Timber pile breakwater



26 – Steel sheet pile bulkhead

The area of riprap ends approx. 50 yards after the Regal bag company timber bulkhead terminates, leaving approx. 200 yards of unprotected shoreline littered with drift wood. Although it is difficult to accurately map due to access restrictions, it is assumed that the unprotected shoreline continues behind the Newburgh Yacht Club timber pile breakwater.

The breakwater itself is in disrepair (25). It is assumed that it was originally constructed from individual timber piles driven and held together by timber wales, this structure was then backfilled to provide a core. Currently a number of the piles are either broken or missing and the core material has started to washed out. It is likely that it is still providing the yacht club with protection from the Hudson, however it is expected that the structure will continue to deteriorate at an accelerated rate if left un-repaired.

There is a small boat lift and re-fuelling facilities located on top of what appears to be timber bulkhead (25). Although the concrete cap and facilities appear to be in good condition, from the water-side the bulkhead looks to be in a state of disrepair and further investigation is recommended to determine the true structural condition. The construction of the bulkhead changes to a steel sheet pile structure (26) apparently in far better condition, although the change in construction/condition is unlikely to be visible from above. It is assumed that the tarmac area above the steel sheet pile bulkhead is used to house the boats during the winter months.

The end of the steel sheet pile bulkhead is protected from outflanking by riprap (26) and closes a gap between the yacht club bulkhead and the start of the bulkhead for the Pier Loun Development.

2.11

Sector 10 Condition Assessment

The following pictures show typical details of the Sector 10 waterfront structures. The location of all the following features is shown in Appendix A.



27 – Steel sheet pile bulkhead



28 – Timber docks

The defences in front of this private development comprise a very small section of old timber bulkhead leading into what appears to be a relatively recently constructed steel sheet pile bulkhead (27). It is assumed that the timber piles driven in front of this bulkhead are used to moor vessels owned by the development tenants. It is difficult to determine whether the sheet piles continue along the entire Pier Loun frontage, as there is timber facing and timber pile fenders along the docking facilities (28). However, the condition of both the timber and visible steel structures is good.

3 Condition Conclusion

3.1 *Current Land Use*

3.1.1 Sector 1

Both the concrete slab piers/bulkhead and the stacked concrete rings appear to be in poor condition, either sagging or toppling. The removed of the established vegetation behind/on top of these structures is not recommended, as this action may cause the structures to become more unstable. However, the shoreline behind is supporting mature trees and substantial plant life. Therefore, it is concluded that, from a shore protection viewpoint, both the concrete piers/bulkhead and the concrete rings are providing adequate protection to the Hudson River bank under the current land use.

The riprap shore protection and the concrete groins appear to be in fair condition and sufficient to support the frontage. There is significant debris collected on the banks. However this does not appear to be damaging to the frontage, and may be helping to protect the beach.

Under the present land use, Sector 1 does not require intervention to maintain status quo.

3.1.2 Sector 2

The outflanking on either side of the rowing launch bulkhead is the only area requiring maintenance along this sector. However, even if the outflanking continues, it is unlikely to affect the rowing facility's ability to launch for quite some time. Therefore it is concluded that, from a shoreline protection viewpoint, no further protection structures are required under the current land use.

3.1.3 Sector 3

The riprap shore protection is in good condition; however the area of lowered defence should be repaired in order to maintain the stability of the frontage during storm conditions.

3.1.4 Sector 4

Under its current land use this frontage is adequately protected and does require intervention. Closer inspection of the area of cut back, along with a review of the previous land uses should reveal whether it is a feature of erosion or merely a man-made characteristic.

Removal of any of the established debris, such as the steel platform or remaining steel piles should be considered with caution. Realignment of the shoreline in combination with the installation of riprap/rubble/debris should replace any structures that are removed in order to ensure outflanking of the existing defences does not occur.

Similar to the previous sectors removal of the vegetation may decrease the stability of the frontage.

3.1.5 Sector 5

Both the public boat launch and the shoreline in this sector are in good condition and do not require intervention under the current land use.

3.1.6 Sector 6

Generally the varied waterfront structures in this sector are providing adequate protection for the current land use. The only exception is the steel sheet piled structure at the northern end of the sector. It is recommended that a detailed structural assessment is carried out to determine the condition before any remediation commences.

3.1.7 Sector 7

The most obvious shoreline feature through this sector is the amount of river debris built-up behind the floating docks. Large tree trunks are causing weak points in the riprap revetment. It is recommended that a maintenance program to clear this flotsam after periods of high water is implemented, both for protection of the waterfront and for health and safety reasons.

A detailed walk over survey of riprap should be facilitated following clearance of the drift wood to identify areas where the defenses have been compromised and the riprap should be replaced or re-graded as necessary.

3.1.8 Sector 8

The Regal bag company timber bulkhead does not require intervention. However, it should be noted that this structure will deteriorate in condition without the regular maintenance it appears to be receiving.

Although the defences along the remainder of the frontage are in various states of disrepair, this does not appear to be compromising the current use of the area. Therefore it is likely that no intervention is required to maintain the shoreline in its current state.

3.1.9 Sector 9

Further investigation into the condition of the timber bulkhead beneath the re-fuelling facilities should be undertaken regardless of any changes in land use or further development.

As noted in Section 2.10 the breakwater is in disrepair and is likely to continue to deteriorate rapidly. However, this worsening of the condition of the breakwater is more likely to affect the yacht club facilities rather than the protection of the shoreline. Under the current land use, replacement or significant maintenance of the breakwater is only recommended for boating use, not shoreline protection.

3.1.10 Sector 10

The waterfront along this area of private development is in good condition and does not require any further intervention.

Appendix – Plan Views













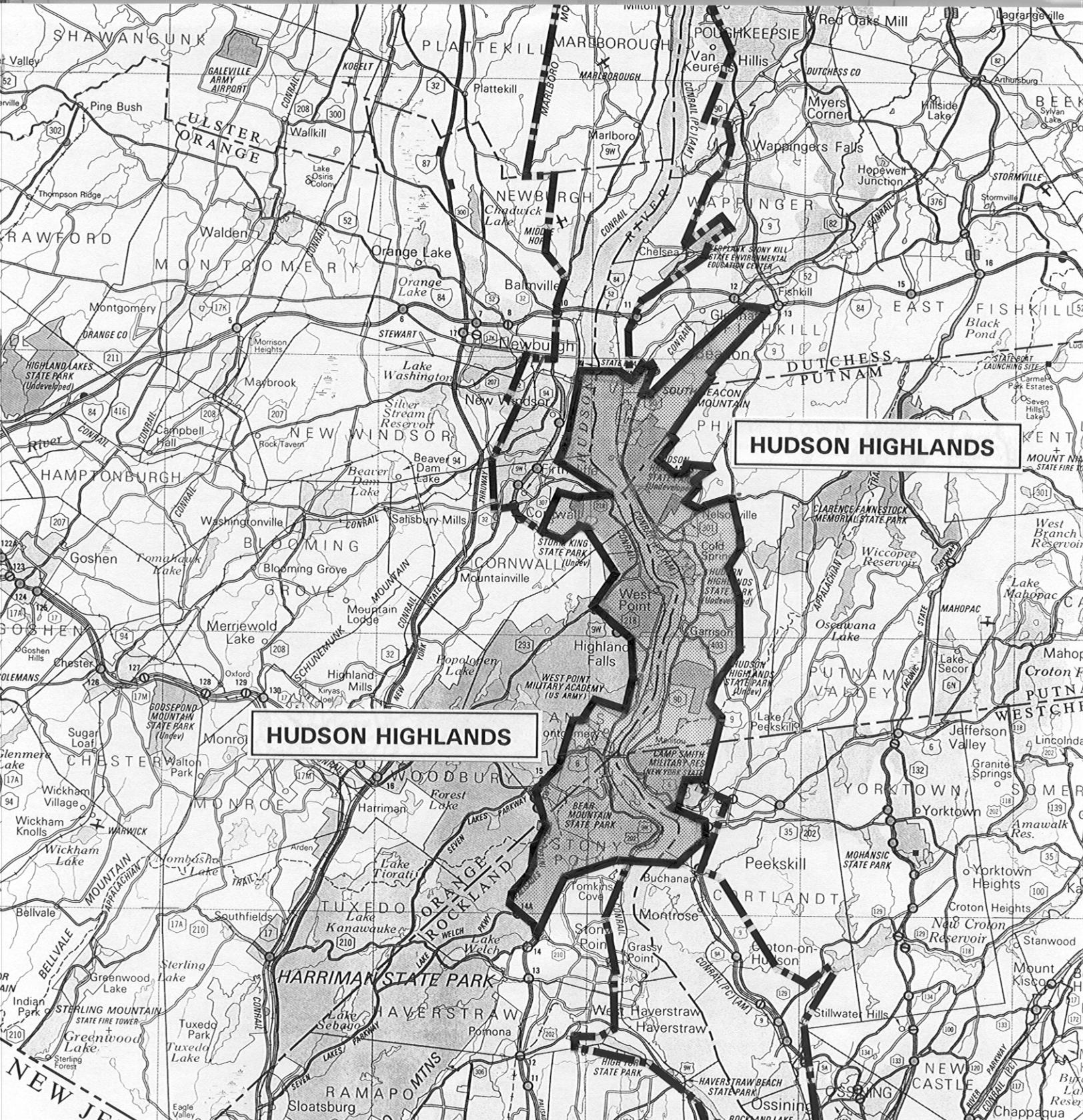






Appendix C

SASS Map and Narrative



HUDSON HIGHLANDS

HUDSON HIGHLANDS

HUDSON HIGHLANDS SCENIC AREA OF STATEWIDE SIGNIFICANCE



Scenic Area



Coastal Area Boundary

SCALE: 1:250,000

**STATE OF NEW YORK DEPARTMENT OF STATE
DIVISION OF COASTAL RESOURCES AND WATERFRONT REVITALIZATION**



NOVEMBER 1992

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 sanatorium. 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.

Appendix D

View Preservation Overlay District Law

ARTICLE VI View Preservation Overlay District

§ 300-30. 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 article is to effect and accomplish the protection, enhancement and perpetuation of the city's scenic resources and 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 article 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.

§ 300-31. Identification and designation.

- A. A View Preservation District has been created 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.
- B. 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.
 - (1) Grand and Washington Streets.
 - (a) View reference line. The view reference line for V-A is a line at an elevation of 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.
 - (b) 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 8° north of the northern right-of-way of Washington Street to the point of intersection with a line extending from the view reference line 6° south of the southern right-of-way of Washington Street.
 - (c) 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.
 - (d) 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.
 - (2) Washington's Headquarters.
 - (a) View reference line. The view reference line for V-B is a line at an elevation of 100 feet located along the eastern edge of the monument of Washington's Headquarters.

- (b) 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 161° northeast of the edge of the monument to the point of intersection of a line extending from the view reference line 138° southeast of the edge of the monument.
 - (c) 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.
 - (d) 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 view 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 view partially obstructs the view, it enhances it by helping to preserve the sense of peace and quiet reflected in the foreground lawn as well as in the river.
- (3) Broadway and Colden.
- (a) View reference line. The view reference line for V-C is a line at an elevation of 100 feet located along a line 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.
 - (b) 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 25° of the Broadway right-of-way to the point of intersection of a line extending from the view reference line 30° southeast of the Broadway right-of-way
 - (c) 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.
 - (d) Description of scenic view. Looking northeast, the foreground is occupied by open space that has been identified for pedestrian walkways to the waterfront. A 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.
- (4) Grand and Second Streets.
- (a) View reference line. The view reference line for V-D is a line at an elevation of 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.
 - (b) 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.
 - (c) 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.
 - (d) Description of scenic view. The parking lot which occupies the foreground is greatly enhanced by the river and mountain background.
- (5) Public Library.

- (a) View reference line. The view reference line for V-E is a line at an elevation of 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.
 - (b) 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 300 feet south of First Street to a point 150 feet north of South Street.
 - (c) 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.
 - (d) Description of scenic view. The river and mountains can be seen from every direction.
- (6) First and Grand Streets.
- (a) View reference line. The view reference line for V-F is a line at an elevation of 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.
 - (b) 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 5° northeast of the First Street right-of-way to the point of intersection of a line extending from the view reference line 27° southeast of the First Street right-of-way.
 - (c) View plane. The view plane for V-F is an imaginary line formed by joining the elevation of the view reference line with the elevation of the view framing line.
 - (d) 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.
- (7) Montgomery Street and Leroy Place.
- (a) View reference line. The view reference line for V-G is a line at an elevation of 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.
 - (b) 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 47° 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 10° east of the western boundary of the Montgomery Street right-of-way.
 - (c) 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.
 - (d) Description of scenic view. This view shows the river and the highlands.
- (8) Montgomery Street.
- (a) View reference line. The view reference line for V-H is a line at an elevation of 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.

- (b) View framing line. The view framing line for V-H is a line at an elevation five 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 30 feet north of the northern boundary of the South Street right-of-way.
 - (c) 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.
 - (d) 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.
- (9) Leroy Place and Park Place.
- (a) View reference line. The view reference line for V-I is a point at an elevation of 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.
 - (b) View framing line. The view framing line for V-I is a line along the near shore of the Hudson River from a point 60 feet south of the southern boundary of the Park Place right-of-way to a point 60 feet north of the northern boundary of the Park Place right-of-way.
 - (c) 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.
 - (d) 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.

§ 300-32. Uses and development.

A. Use restrictions.

- (1) No building, structure or permanent improvement shall be erected, have its exterior reconstructed, restored, or structurally altered, or be 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 article has been obtained.
- (2) The provisions of this section shall not apply to ordinary care and maintenance of structures and property nor to the reconstruction of a structure preexisting the adoption of this chapter, 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) Visual plan submission.
 - (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 chapter. 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 30 days after the submission of the VEAF and elevation plan to it, 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 article 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 it 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 this chapter for public hearing before the Zoning Board of Appeals. A decision shall be rendered no later than 30 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. The Architectural Review Commission or Planning Board shall:
 - [1] Identify the site and perform a site inspection and examination for any public Hudson River view.
 - [2] Determine the visibility of the project within the protected view planes and the extent to which a scenic view or views could be impacted.
 - [3] Determine the project's visual impact based on:
 - [a] Distance. The proximity of the project site to a viewpoint.
 - [b] Aspect. The direction of a project relative to the observer. The more directly a project faces the observer, the greater its impact.
 - [c] Relationship. Location of the project within the viewshed protection district.
 - [d] 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 multistory 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.