

**SECTION III
LOCAL WATERFRONT REVITALIZATION
PROGRAM POLICIES**

The Policies Section is divided according to subject headings of the State Coastal Zone Management Program. Each of the 44 policies included in the State Program is indicated by arabic numeral, e.g. 1. Additional policies that are relevant to local conditions and/or can strengthen the basic policy by local actions are indicated by a capital letter following the arabic number, e.g. 1A. In some instances, the original State policy is not applicable to Rhinebeck and that statement is so indicated. However, all policies once included in the Town LWRP and determined to be applicable, whether of State or local origin, become Rhinebeck's policies.

Policies respond to and identify solutions to issues that have been identified in Section II, Inventory and Analysis. They may contain general statements, or they may be action- and/or location-specific.

There will be a not less than tri-annual review of the LWRP by the Town Conservation Advisory Council in its role as Waterfront Advisory Committee to be certain that the policies remain applicable to the Town.

Following the policy statements are explanations of the policies and descriptions of criteria, standards or guidelines that will be used to evaluate compliance with a particular policy or policies. In general, Town decisions on public expenditures, land use decisions and review of private development plans will be measured in terms of compliance with the various policies.

In a number of instances where the basic policy covers local plans, projects or programs, the latter are incorporated into the explanation of how the policy is to be implemented.

DEVELOPMENT POLICIES

POLICY 1 RESTORE, REVITALIZE, AND REDEVELOP DETERIORATED AND UNDERUTILIZED WATERFRONT AREAS FOR COMMERCIAL, INDUSTRIAL, CULTURAL, RECREATIONAL, AND OTHER COMPATIBLE USES.

Explanation of Policy

The Local Waterfront Revitalization Area (LWRA) in Rhinebeck is characterized as a historic, scenic, rural estate area paralleling the shore of the Hudson River which surrounds higher density residential and commercial uses centered in the hamlet of Rhinecliff and to the west of the Village of Rhinebeck. This area, encompassing the western portions of the Town, has been established as co-terminus with the State-designated Mid-Hudson Historic Shorelands Scenic District. See Map 7.

Improvements to the Rhinebeck Town Landing / Rhinecliff Dock facilities need to be continued and maintenance tasks undertaken. Once completed, these facilities will serve as a riverfront park, providing recreational boating, ice boating, fishing, picnicking and scenic viewing opportunities for area residents and opportunities for docking of cruise boats. Other coastal access points, such as Slate Dock and Long Dock, which currently have only on-grade crossing of the railroad tracks (which have been closed due to safety considerations), need to be further studied for re-utilization and redevelopment possibilities. (See chart in Inventory for initial analysis of conditions, advantages and disadvantages of sites and Map 6 for location of sites.) Use of portions of the abandoned railroad right-of-way which originates at the River in Rhinecliff and continues in a northeasterly direction for hiking and/or biking trails needs to be further examined.

In recent years and in some cases decades, some of the large estates and various waterfront parcels and docks along the Hudson River have shown signs of deterioration because of neglect, high maintenance cost and problems in crossing the tracks. Preservation and, in some cases, redevelopment of these properties is desirable and possible. In the case of Wilderstein, ownership of the property has been transferred to a not-for-profit organization and a series of renovations has been undertaken with both public and private funding. The restoration site is open to the public with use of the mansion and landscaped grounds available to the public.

The following guidelines will be used in evaluating development or redevelopment actions:

1. Along the shoreline of the Town, priority should be given to uses which are compatible with the historic and scenic character of the area and which are dependent on a location adjacent to the water;
2. The action should enhance existing and anticipated uses;
3. Public action should, whenever possible, serve as a catalyst to private investment in the area;
4. The action should improve the deteriorated condition of a site and, at a minimum, must not cause further deterioration (i.e. a building should not be abandoned without protecting it against vandalism and/or structural decline);
5. The action must lead to development which is compatible with the character of the area, with consideration given to scale, architectural style, density, and intensity of use;
6. The action should have the potential to improve the existing economic base of the community and, at a minimum, must not jeopardize this base;
7. The action should improve adjacent and upland views of the water and shoreline, and, at a minimum, must not affect these views in an insensitive manner; and

8. The action should have the potential or improve the potential for multiple uses of the site (particularly recreational uses).

See Policies 19A, 20A, 22, 23 and 23A.

POLICY 1A ENCOURAGE GROWTH OF THE TOURISM SECTOR OF THE TOWN ECONOMY THROUGH: (1) REVITALIZATION, REDEVELOPMENT, PRESERVATION OR ENHANCEMENT OF AREAS AND STRUCTURES WITHIN THE WATERFRONT REVITALIZATION AREA / HISTORIC SHORELAND SCENIC DISTRICT / ESTATES DISTRICT SCENIC AREA OF STATEWIDE SIGNIFICANCE AND (2) TAKING STEPS TO INFORM THE PUBLIC OF EXISTING AREAS OF HISTORIC, SCENIC, AND RECREATIONAL INTEREST.

Explanation of Policy

Efforts to promote recreational fishing and boating, cultural activities, marinas, water-related recreational facilities, historic preservation, natural resource preservation, the preservation of vistas and views, and other activities which will make the waterfront area vital for residential, commercial and recreational usage and appealing for tourists in appropriate locations will be pursued. This will be accomplished through promoting the use of historic estates for cultural purposes, working with railroad interests to secure access to Long Dock, Slate Dock and Morton's Dock, creative use of low density zoning, clustering, and conservation easements.

In addition, the development of tourist-related activities, such as shops, small offices and personal service establishments, restaurants and bed and breakfast enterprises in the hamlet of Rhinecliff and River cruises and festivals at the Rhinebeck Town Dock, all at a limited scale, will be encouraged as a means of revitalizing these waterfront areas. Concurrently, accommodations for public parking will need to be enhanced or innovative solutions considered, such as development of additional parking on CSX lands and the use of valet parking at a satellite lot, both as recently discussed as part of the on-going renovation proposal for the Rhinecliff Hotel.

Tourism is a growing industry in the Town economy. A cultural resources map will be utilized to inform residents and visitors of local areas of historic scenic and recreational interest.

See Policies 1, 2, 19A, 23, 23A, 24A, 24B.

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

Explanation of Policy

At this time, the primary water-dependent use in the LWRA is the Town Landing in Rhinecliff. It is currently used by recreational boaters and fisherman, ice boaters, and also by commercial fishermen. While some cruise boats stop at the dock during summer months, its expanded routine use by scheduled ferry service linking Rhinebeck, Kingston, Tivoli and other communities would be on balance quite desirable provided recreational use opportunities there are not lost for the people of Rhinebeck. There are no retail commercial or industrial uses located adjacent to the River.

The following uses and facilities are considered as water-dependent. All proposals will be examined for appropriateness in Rhinebeck.

1. Uses which depend on the utilization of resources found in coastal waters (for example: fishing, mining of sand and gravel, aquaculture activities);
2. Recreational activities which depend on access to coastal waters (for example: swimming, fishing, boating, wildlife viewing);
3. Structures needed for navigational purposes (for example: dams, beacons, lighthouses);
4. Flood and erosion protection structures (for example: breakwaters, bulkheads);
5. Facilities needed to store and service boats and ships (for example: marinas, boat repair, boat construction yards);
6. Scientific/educational activities which, by their nature, require access to coastal waters (for example: certain meteorological and oceanographic activities); and
7. Support facilities which are necessary for the successful functioning of permitted water-dependent uses (for example: parking lots, snack bars, first aid stations, short-term storage facilities). Though these uses must be near the given water-dependent use they should as much as possible, be sited inland from the dependent use rather than on the shore.

Expanding the utilization and/or area of existing water-dependent uses and attracting additional water-dependent uses and activities that are consistent with Town planning objectives is a priority. See list of Hudson River "Coastal Access Points" in Section II which includes several sites that could be developed for water-related recreation purposes and/or public access including the Town Landing in Rhinecliff, Wilderstein Landing/Morton Dock, Slate Dock and Long Dock.

Marinas, boat clubs, docks and boat ramps are, and will continue to be allowed, as special permit uses in the R-1A and R-5A Districts.

When reviewing subdivision proposals or site plans, the Planning Board or other agency of the Town will carefully examine plans for development of waterfront sites and will negotiate for public access to the water.

The following guidelines will be utilized in promoting and facilitating compatible water-dependent uses:

1. Water-dependent uses that are compatible with the natural and built environment and will not negatively impact the natural, scenic or historic resources of the Town will be favored when considering new developments.
2. If, or when, publicly-owned property within the waterfront area becomes available for re-use, water-dependent uses will be considered first. Water-enhanced uses will be given second priority.
3. Permit procedures for the development of water-dependent uses will be facilitated when consistent with planning objectives.
4. Uses which are water-enhanced will be encouraged within the waterfront area, but not at the expense of water-dependent uses.
5. If there are no immediate demands for water-dependent uses within the waterfront area, but future demands are foreseeable, temporary non-water-dependent uses will be considered.

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

1. Favored treatment to areas for proposed compatible water-dependent uses with respect to use of public investment. Particular priority will be give to the construction and maintenance of docking facilities, roads, railroad facilities (including above-grade crossings), and public transportation within areas appropriate for compatible water-dependent uses.
2. Where areas suitable for water-dependent uses are publicly-owned, favored leasing arrangements will be considered for suitable or compatible water-dependent uses, if appropriate.
3. Where appropriate, consideration will be given to providing pursuant to applicable laws and regulations water-dependent uses with property tax abatements, loan guarantees, or loans at below market rates.

4. Local planning and economic development agencies will work with the State to actively promote suitable water-dependent uses on appropriate sites.
5. Local agencies will work together with State and Federal agencies to streamline permitting procedures that may be burdensome to compatible water-dependent uses.

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

See Policies 1, 19A, 20A, 21, 21A, 22.

POLICY 3 THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF MAJOR PORTS IS NOT APPLICABLE TO THE TOWN OF RHINEBECK.

Explanation of Policy

Policy 3 is not applicable to the Town of Rhinebeck as the Town is not one of the identified major ports of New York State.

POLICY 4 THE STATE COASTAL POLICY REGARDING THE STRENGTHENING OF SMALL HARBORS IS NOT APPLICABLE TO THE TOWN OF RHINEBECK.

Explanation of Policy

Policy 4 is not applicable to the Town of Rhinebeck because the Town's waterfront does not contain a small harbor area as referred to in this policy. The town operates a short dock for small-scale recreational boating and provides a ramp for boat trailer access.

POLICY 5 ENCOURAGE THE LOCATION OF DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES AND FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE, EXCEPT WHEN SUCH DEVELOPMENT HAS SPECIAL FUNCTIONAL REQUIREMENTS OR OTHER CHARACTERISTICS WHICH NECESSITATE ITS LOCATION IN OTHER COASTAL AREAS.

Explanation of Policy

Development within the LWRA will be encouraged to locate within or in close proximity to areas where infrastructure and public services are adequate or can easily be expanded, and where topography, geology and other environmental conditions are suitable for, and able to, accommodate development. Specifically, the policy is intended to:

1. Strengthen existing residential, industrial and commercial centers, as appropriate;
2. Foster an orderly pattern of growth where outward expansion is occurring;
3. Increase the productivity of existing public services and moderate the need to provide new public services in outlying areas;
4. Preserve open space; and
5. Where desirable, foster energy conservation by encouraging proximity between home, work and leisure activities.

The hamlet of Rhinecliff has public water service, but is in need of a public sewage disposal system. The feasibility of extending the Village of Rhinebeck sewage system to Rhinecliff, or providing an alternative means for sewage collection and treatment to meet the needs of the hamlet, has been explored in the past and continues to be discussed during the Town's on-going 2003 -2005 Comprehensive Plan Update. Funding remains an obstacle to carrying out this improvement for protection of the quality of surface waters which are used for public water supply. Those local, State and Federal agencies charged with allocating funds for investment in such facilities should give high priority to these needs. (See Inventory Section on Utilities.)

In general, the proposed land uses and current zoning in the waterfront area of the Town correspond to a desire to protect the natural features and historic and scenic assets, as well as to the availability or lack of availability of utilities. The bulk of the Town's waterfront area is zoned for very low density uses where utility service does not exist and is unlikely to exist. In the hamlet of Rhinecliff, and within the corridor between the hamlet and the Village of Rhinebeck, medium density is permitted reflecting the availability of water service.

For any action that could result in large scale development or an action which would facilitate or serve future development, determination shall be made as to whether the action is within, contiguous to, or in close proximity to an area of concentrated development where infrastructure and public services are adequate.

The following guidelines will be used in making this determination:

1. The proposed site is served by, or is near to, public or private sewer and water lines;

2. Public transportation service is available within one mile of the proposed site; and
3. A cluster of commercial and/or industrial activity is within one-half mile of the proposed site.

In reviewing proposed uses or actions, and when assessing the adequacy of infrastructure and public service for proposed developments, the following guidelines should be considered:

1. Where water-dependent uses are to be located within portions of the waterfront area that are not currently serviced or cannot easily be serviced, the type and intensity of such uses shall be consistent with the capacity of the land to accommodate such use and the compatibility of the proposed project with the existing natural and built environment of the community.
2. Utility systems constructed as part of new subdivisions or commercial projects must meet Town specifications for possible inclusion in future Town-wide water or sewer systems.
3. Proposed development in waterfront areas shall be limited to levels that will not burden roads or cause congestion or safety problems or require widening, substantial grading or re-alignment of scenic roads.
4. Energy needs of the proposed land development can be accommodated by existing utility systems.
5. Storm water runoff from the proposed site can be accommodated by on-site and/or off-site facilities.
6. Schools, police and fire protection, and health and social services 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.

Priority will be given in allocation of funds for water, sewer and roadway improvements and other public services to activities which promote compatible waterfront revitalization, particularly in the hamlet of Rhinecliff.

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, the Town will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, and will work with Federal and State agencies to coordinate procedures as long as the integrity of the regulations' objectives is not jeopardized. These procedures and programs will be coordinated within each agency. Also, efforts will be made to ensure that each board and 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 of government, and if necessary, legislative and/or programmatic changes will be recommended.

When proposing new regulations, an agency will determine the feasibility of incorporating the regulations within existing procedures, if this reduces the burden on a particular type of development and does not jeopardize the integrity of the regulations' objectives.

FISH AND WILDLIFE POLICIES

POLICY 7 SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS, AS IDENTIFIED ON THE COASTAL AREA MAP, SHALL BE PROTECTED, PRESERVED, AND WHERE PRACTICABLE, RESTORED SO AS TO MAINTAIN THEIR VIABILITY AS HABITATS.

Explanation of Policy

Habitat protection is recognized as fundamental to assuring the survival of fish and wildlife populations. Certain habitats are critical to the maintenance of a given population and, therefore, merit special protection. Such habitats exhibit one or more of the following characteristics: (1) are essential to the survival of a large portion of a particular fish or wildlife population (e.g. feeding grounds, nursery areas); (2) support populations of rare and endangered species; (3) are found at a very low frequency within a coastal region; (4) support fish and wildlife populations having significant commercial and/or recreational value; and (5) would be difficult or impossible to replace.

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

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

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would either destroy the habitat or significantly impair the viability of a habitat.

For this purpose "habitat destruction" is defined as the loss of fish or wild life use through direct physical alteration, disturbance, or pollution of a designated area, or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

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

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

The range parameters which should be considered in applying the habitat impairment test include:

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

Significant coastal fish and wildlife habitats are evaluated, designated and mapped pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law of New York, Article 42). The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas, three of which (Vanderburgh Cove and Shallows, Kingston Deepwater Habitat, and The Flats) lie within the Rhinebeck LWRA and are subject of below Policies 7A, 7B and 7C, with a fourth, Rondout Creek Habitat, found along the opposite westerly shore of the Hudson within the City of Kingston and Town of Ulster.

POLICY 7A THE VANDERBURGH COVE AND SHALLOWS HABITAT SHALL BE PROTECTED, PRESERVED AND, WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.

Any activity that would substantially degrade water quality in Vanderburgh Cove and Shallows could affect the biological productivity of this area. All species of fish and wildlife may be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. Continued efforts should be made to improve water quality in the Hudson River, primarily by controlling discharges from combined sewer overflows. The use of herbicides along the railroad right-of-way or adjacent uplands may result in adverse impacts on the fish and wildlife resources of the area. Alteration of tidal fluctuations in Vanderburgh Cove and Shallows could have significant impacts on fish and wild life; increased tidal exchange may improve habitat quality in the cove. During the early 1980's, a railroad bridge opening to the cove was made smaller, and this may have had detrimental effects. Disruption of natural plant communities or benthos in the area could reduce its value as a fish and wildlife habitat, although control of water chestnut may be desirable or necessary to maintain certain species. Any physical disturbance of the habitat, through dredging or filling (including dredge spoil disposal), would result in a direct loss of valuable habitat area; any dredging activities needed to maintain the existing channel should be scheduled in mid to late summer to minimize potential impacts on most aquatic organisms and migratory birds. Thermal discharges, depending on time of year, may have variable effects on use of the area by aquatic species and wintering waterfowl; fish spawning activities and survival are often directly affected by water temperature. Installation and operation of water intakes could have significant impacts on fish concentrates, through impingement of juveniles and adults, or entrainment of eggs and larval stages. Significant human encroachment into adjacent areas may limit use of Vanderburgh and Suckley Coves by certain species, but potential impacts may be mitigated somewhat by controlling soil erosion and discharges of polluted runoff. Existing areas of natural vegetation bordering Vanderburgh Cove and Shallows should be maintained for their value as cover, perch sites, and buffer zones. Enhancement of public access to increase compatible human uses of fish and wildlife resources in the area may be desirable.

POLICY 7B THE KINGSTON DEEPWATER HABITAT SHALL BE PROTECTED, PRESERVED AND, WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.

Activities that could affect the water quality, temperature, turbidity or freshwater to saline distribution in the deepwater portions of the river may adversely impact on the estuarine community. Major reduction in overall depths within this deepwater trench may also have adverse effects on the sturgeon spawning, wintering, and continued use of the habitat. Deposition of dredged material or natural sediments, especially if contaminated, may degrade the quality of this unusual area.

POLICY 7C THE FLATS HABITAT SHALL BE PROTECTED, PRESERVED AND, WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.

Any activity that would substantially degrade water quality in the Flats could affect the biological productivity of this area. All species of fish and wildlife may be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. Continued efforts should be made to improve water quality in the Hudson River, which is primarily dependent upon controlling discharges from combined sewer overflows, industrial point sources, and ships. Oil and other hazardous substance spills are an especially significant threat to this area, because the biological activity of tidal flats is concentrated at the soil surface, much of which may be directly exposed to these pollutants. Disruption of plant communities or benthos in the area through dredging or filling (including dredge spoil disposal), could reduce its value as a fish and wildlife habitat; no new navigation channels should be cut through the area. Thermal discharges, depending on time of year, may have variable effects on use of the area by aquatic species; shad spawning activities and survival are directly affected by water temperature. Installation and operation of water intakes could have significant impacts on fish populations in the area, through impingement of juvenile and adult fish, or entrainment of eggs and larval stages.

Other locally important coastal habitats identified in Policies 7D and E shall be protected, preserved and, where practical, restored so as to maintain their viability as habitat areas.

See Policies 8, 9, 12, 17, 30, 34, 35, 36, 37, 44.

POLICY 7D SUPPORT EFFORTS TO PROTECT AND ENHANCE THE NATURAL RESOURCES OF FERNCLIFF FOREST, SNYDER SWAMP AND THE MUDDER KILL.

POLICY 7E PROTECT THE CREEKS, FRESHWATER TIDAL WETLANDS, AND FRESHWATER TIDAL COVE AREAS DRAINING INTO AND ADJACENT TO THE HUDSON RIVER FROM ALTERATION AND/OR POLLUTANT DISCHARGE BY RESIDENTIAL, COMMERCIAL, AGRICULTURAL OR INDUSTRIAL USES.

The Landsman Kill and Rhinebeck Kill which join and flow into Vanderburgh Cove (a State DEC-designated habitat area), as does the Fallsburg Creek, must be protected. These creeks contain a variety of fresh water fish and the Landsman Kill is regularly stocked with trout. The Suckley-Vanderburgh freshwater-tidal cove area is considered a significant habitat of local and regional importance because of its size, uniqueness and relatively unspoiled estuarine condition. It is important to spawning and feeding fish and migrating ducks and serves as an osprey feeding area. It is used by marsh wrens, herons, and egrets in the late summer. The Astor Cove and Slate Dock Cove areas, as well as other freshwater-tidal cove areas of the Town that need to be protected are included on Map 5, "Coves / Freshwater – Tidal Wetland Areas", in the Environmental Features chapter of the Inventory and Analysis Section.

Ferncliff Forest, with its stands of mature hardwood trees with scattered white pine and hemlock groves is an area of local and county-wide significance. Ferncliff Forest is part of a larger ecological area with Snyder Swamp, a freshwater wetland area, and the Mudder Kill, which flows in a northerly direction. These wooded, pond, wetland and stream areas must be preserved as animal and bird habitat areas (cerulean warblers are among the significant bird populations that utilize this area), as well as for local recreational purposes (see Inventory and Analysis Section). (The Ferncliff Forest area has extensively used trails for hiking and horseback riding. The lookout tower, if it could be rebuilt, at the top of Mount Rutsen in the forest area would provide significant opportunities for viewing scenic vistas.)

Protection will be achieved through application of a combination of implementation tools, including: strict enforcement of wetland regulations; clustered development; limited to low density residential zoning within the R5A and R3A District classifications; protection of streams through the Land Conservation (LC) District's limitation on development within 75 feet from each side of a stream; a Water Resources Protection Overlay (WRP-O) District, which serves as an expansion of the Land Conservation District to include such areas as Snyder Swamp and the Millpond area, as well as Hudson River shoreline areas, including wetlands and bluffs; preservation of open space areas through conservation easements held by non-profit preservation groups; and through environmental quality review, special use permit review (for all development within 100 feet of the normal streambank of a classified stream or NYSDEC Freshwater Wetland) and site plan review to determine that any proposed development will not be inconsistent with habitat protection.

In addition, the Town has requested that DEC upgrade the classification of these streams -- the Landsman Kill to "B(T)", the Rhinebeck Kill to "C(T)", the Fallsburgh Creek to "C(T)", and the Mudder Kill to "C" -- in order to protect and, if possible, improve the water quality. A "B(T)" classification would further protect the Landsman Kill by extending coverage under the NYS Stream Protection Act (ECL Article 15). Moreover, in an attempt to preserve the existing habitats and encourage fish and wildlife reproduction in and near the creeks and the River, the water quality levels in Rhinebeck will be maintained and improved, if possible. Dumping into the creeks, kills and river are prohibited. Adequate sewage and storm water facilities will be maintained and expanded facilities will be installed where necessary to support new development.

Moreover, the Town's Conservation Advisory Council (CAC) has recently undertaken training and is pursuing a project in bio-diversity study and associated mapping of the entire Town, including the LWRA, which will assist both project sponsors and the local boards in evaluating ecological and environmental impact of proposed development.

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 EFFECTS 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 [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 when improperly treated, stored, transported, disposed or otherwise managed." A list of DEC-defined hazardous wastes can be found in 6NYCRR Part 371.

The handling (storage, transport, treatment and disposal) of the materials included on the hazardous waste 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 should 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.

Other pollutants refer to conventional wastes generated from point and non-point sources which are not identified as hazardous wastes, but which also cause physiological or behavioral effects and mortality of fish and wildlife. Such pollutants are also controlled by State regulations.

Fish and wildlife resources in the Hudson River (source of drinking water for the Village of Rhinebeck and hamlet of Rhinecliff and significant fish habitat and spawning area), as well as in Town creeks need to be protected. Monitoring of streams, the former Town landfill, and any other landfill sites will be used to identify pollutants from existing or prior uses. Zoning, land use controls, and site plan review procedures will be used to avoid the siting of uses within the waterfront area that could introduce hazardous wastes into air, ground and surface waters or other features of the environment and threaten fish, bird and wildlife resources, or could be directly or indirectly toxic or dangerous to humans. Any development proposed in the waterfront area must incorporate proper disposal plans to avoid ground and/or surface water pollution that could accumulate in the food chain.

See Policies 7A, 7C, 30, 33, 34, 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 WILD-LIFE RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.

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 usage of these resources in or along Rhinebeck's creeks, cove areas and Hudson River shoreline must be made in a manner which does not negatively affect existing resources or activities. (See sub-sections on Water-Related Uses and Coastal Access Points in the Inventory and Analysis Section.) Such efforts must be done in accordance with existing State law and in keeping with sound management practices. Consideration of proposed actions will include evaluation of information on the biology of an affected species, the carrying capacity of the resources, public demand, costs and available technology.

The following additional guidelines shall be utilized to determine whether or not any proposed action is consistent with this policy:

1. Consideration shall be made as to whether an action will harm or impede existing or future utilization of Town recreational fish and wildlife resources.
2. Efforts to increase access to recreational fish and wildlife resources shall not lead to over-utilization of that resource or cause impairment of the habitat. Sometimes, such impairment can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter animals from using the habitat area.
3. The impacts of increasing access to recreational fish and wildlife resources shall be determined on a case-by-case basis, consulting the significant habitat narrative (see Policy 7) and/or conferring with a trained fish and wildlife biologist.
4. Any public or private sector initiatives to supplement existing stocks (e.g., stocking the Landsman Kill or other stream with fish reared in a hatchery) or develop new resources (e.g., creating private fee-hunting or fee-fishing facilities) shall be continued or expanded in accord with existing State and local laws.

Finally, Town recommendations to DEC to upgrade classification of streams should result in maintaining or improving water quality, and thus in maintaining or increasing the supply of fish for recreational uses.

See Policies 1, 7A, 19, 19A, 20, 21, 21A, 22 and 31.

POLICY 10 FURTHER DEVELOP COMMERCIAL FINFISH, SHELLFISH, AND CRUSTACEAN RESOURCES IN THE COASTAL AREA BY: (1) ENCOURAGING THE CONSTRUCTION OF NEW, OR IMPROVEMENT OF EXISTING ON-SHORE COMMERCIAL FISHING FACILITIES; (2) INCREASING MARKETING OF THE STATE'S SEAFOOD PRODUCTS;

AND (3) MAINTAINING ADEQUATE STOCKS AND EXPANDING AQUACULTURE FACILITIES. SUCH EFFORTS SHALL BE IN A MANNER WHICH ENSURES THE PROTECTION OF SUCH RENEWABLE FISH RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.

Explanation of Policy

The renovation of the Town Dock facilities in Rhinecliff may in the future provide some opportunity and impetus to increasing commercial fishing in the Town, which is currently limited by the fact that there is only one species, the shad, that is commercially caught and legally sold (PCB concentrations limit sales of other species such as striped bass), and by the fact that there are limited docking facilities and some waning of interest by Hudson River east bank fishermen. Significant shellfish and crustacean resources are not indigenous to the area and there are currently no aquaculture activities or facilities in the Town. Moreover, as any new marina facilities may be proposed, facilities for docking and servicing commercial fishing vessels will be encouraged. In addition, on-land aquaculture activities could be considered, if the operation would be compatible with existing uses.

Any commercial fishery development activities must occur within the context of sound fisheries management principles developed and enforced within the State's waters by the New York State Department of Environmental Conservation.

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 (use conflicts), and technological constraints to utilizing these resources.

The following additional guidelines should be considered in determining the consistency of a proposed action with the policy:

1. A public agency's commercial fishing development initiative should not pre-empt or displace private sector initiative.
2. A public agency's efforts to expand existing or create new on-shore commercial fishing support facilities should be directed towards unmet development needs rather than merely displacing existing commercial fishing activities from a nearby port.
3. An action should not impede existing utilization or future development of the State's commercial fishing resources.
4. Commercial fishing development efforts should be made in a manner which ensures the maintenance and protection of the renewable fishery resources.

See Policy 21A.

FLOODING AND EROSION HAZARDS POLICIES

POLICY 11 BUILDING 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.

Explanation of Policy

The erosion aspects of this policy are not applicable, since there are no identified Coastal Erosion Hazard Areas within the Rhinebeck Waterfront Revitalization Area.

The Town participates in the National Flood Insurance Program. The flood hazard areas for 100 year floods in the Town of Rhinebeck, as defined in the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency include the tidal cove areas along the Hudson River, as well as areas surrounding the Rhinebeck Kill, the Landsman Kill and the Fallsburg Creek, all draining southwestward toward the River. In the northern part of the Town, Snyder Swamp with waters flowing into the Mudder Kill is also in a 100 year flood zone.

In the future, there will be some enlargement of the flood areas of the Town, since the mean flood level of the Hudson River and its bays, coves and tributaries is rising.

Development within the flood hazard areas of the Town indicated above shall be restricted as follows:

1. Building or other structures along the stream banks and river banks (where there are no bluffs) will be setback at least 75 feet to avoid dangers of flooding and of construction on clay soils subject to erosion. Where bluffs exist along the Hudson River, greater setback will be required (see below).
2. All new construction and substantial improvement of residential and non-residential development shall have the lowest floor, including basement, elevated to the level of the base flood elevation and/or shall have flood proofing of non-residential structures.
3. Development along streams in the Town is limited within 75 feet of each side of a stream's mean high water mark in the Land Conservation (LC) District and 100 feet thereof under the standards set forth for the Water Resources Protection Overlay (WRP-O) District.

Stream bank erosion from tidal action or navigation on the Hudson River is considered a moderate problem at this time. Strong bulkheading has been required at the Town Landing to combat wave action and winter ice. The fact that the railroad has elevated the tracks along the River and maintains its railbed lessens tidal erosion impacts on nearby areas. However, the sloping to steep banks along

the River are subject to slumping and need to be protected, especially the area near Suckley Cove, north of Jones Island, which is considered an area of critical erosion.

Vegetation needs to be maintained along the sloping banks. In some cases, a grass surface that can accommodate run-off without erosion can be utilized for relatively small areas. In most cases, the existing forested conditions should be continued wherever slopes are over 10%, up to the 100 foot contour, or for a distance of 200 feet inland.

Selective trimming can be utilized to maintain or recreate viewing areas.

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. PRIMARY DUNES WILL BE PROTECTED FROM ALL ENCROACHMENTS THAT COULD IMPAIR THEIR NATURAL PROTECTIVE CAPACITY.

Explanation of Policy

Beaches, dunes and barrier islands, as such, are not found along the Hudson in the Town.

Bluffs, wetlands (including tidal shallow and mudflats) and other natural protective features help safeguard coastal lands and property from damage, as well as reduce the danger to human life, resulting from flooding and erosion. A bluff is an earthen bank with a precipitous or rounded face adjoining a beach or body of water. Where there is no beach present (which is the case in Rhinebeck) the waterward limit is the mean low water of the Hudson River. The landward limit is 25 feet landward of the receding edge. The shoreline areas in Rhinebeck that rise from the River include: (1) areas of exposed bedrock, e.g. near the Kingston-Rhinecliff Bridge (Route 199) in the northwestern portion of the waterfront area, Clifton Point, near the hamlet of Rhinecliff, and in the area of Sturgeon Cliffs, and (2) areas of mixed clay and sand that form gently-to-steeply sloping bluffs which are subject to erosion. Wetlands are discussed in Policy 44.

Excavation of coastal features, improperly designed structures, inadequate site planning, or other similar actions which fail to recognize their fragile nature and high protective values, lead to the weakening or destruction of those landforms. Activities of development in, or in proximity to, natural protective features must ensure that any adverse actions are avoided or eliminated.

Many portions of the Town are subject to flooding; other portions of the Town, particularly along the Hudson shore, are subject to erosion of slopes and exacerbation of dangerous slump areas. Development of large estates along the riverfront, use of land for agricultural purposes, the

availability of sufficient amounts of vacant, more easily buildable land, use of very low density residential or land conservation zoning along creeks, as well as limited development pressures, all have helped to preserve the bulk of such flood and erosion-prone areas in their natural state. However, as further development is proposed, the issue of preservation of natural features to avoid flooding and erosion hazards needs to be considered during site plan and subdivision review. Where appropriate, development will be clustered away from sensitive areas. Maintenance of existing vegetation, setbacks of at least 50 feet from the streams, bluffs, and erosion prone clay soils will be required and excavation and grading of riverbank areas will not be permitted.

See Policies 1, 2, 11, 16, 17, 44.

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

Since no Coastal Erosion Hazard Areas have been designated within the Town, this policy has limited applicability for Rhinebeck.

This policy will help ensure the reduction of damage or loss from erosion protection structures (such as bulkheads that might be used for docks or other water-related uses) that because of improper design, construction and maintenance standards fail to give the protection which they are presumed to provide. If proposed as part of development or redevelopment of a parcel, the Town Planning Board and/or other agencies will examine proposed structures through site plan and subdivision review processes. Otherwise, permit reviews will be consistent with this policy.

Within waters under Rhinebeck's jurisdiction, no person may construct or alter any erosion protection structures without providing:

1. Plans and the detailed explanation necessary to determine exactly what is proposed.
2. Evidence that the structure is not likely to fail and become a danger or obstruction to navigation.
3. Evidence that the structure will effectively control erosion for at least 30 years or that a maintenance program will be undertaken to ensure its continuation for that period.

See Policies 1, 2, 14, 16, 19A, 21A.

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 his actions, man 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, or the use of impermeable docks which block the littoral transport of sediment to the adjacent shorelands, thus increasing their rate of recession; and the failure to observe proper drainage or land restoration practices, thereby causing run-off and the erosion and weakening of the shorelands.

Site plan review, subdivision review and permit review will be used to monitor projects and 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. Developments along the river bank will be sited to avoid construction on clay soils and soils subject to erosion, and the following practices will be utilized for construction in the waterfront area:

1. Any proposed development shall conform with existing geological and topographic features, to the end that the most appropriate use of land is encouraged.
2. Any proposed development shall be so designed as to provide for proper surface water management through a system of controlled drainage that preserves existing drainage patterns and protects other properties.

See Policies 1, 2, 11, 12, 13, 16, 21A and 21B.

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 OF SUCH WATERS AND SHALL BE UNDER-TAKEN 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 or shoreline sediment by water, and any mining, excavation or dredging in near-shore or offshore waters changing the supply and net

flow of such materials can deprive shorelands of their natural regenerative powers. Such mining, excavation and dredging should be accomplished in a manner so as not to cause a reduction of supply, and thus an increase of erosion, to such shorelands.

Off-shore mining for sand and gravel deposits is a future alternative option to land mining for sand and gravel deposits which are needed to support building and other industries.

At the present time there are no dredging, mining or excavation activities in Rhinebeck's waters. Moreover, there are no sites in the Town suitable for the deposit of dredge spoils nor are commercial excavation and/or soil mining authorized under the Town's Zoning Law within either the R5A or LC Districts which comprise the most extensive land areas within the LWRA. Any dredging, excavation or mining activities will be accomplished in a manner that will not increase erosion or negatively affect significant habitat areas. All applicants for any such activity must receive permits from the Army Corps of Engineers and NYSDEC, which can only be issued if consistent with the LWRP.

See Policy 35.

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

This policy recognizes the public need for the protection of human life and existing investments in development and for new development which may require a location in proximity to the waterfront area or in adjacent waters to be able to function. However, it also recognizes the potential adverse impacts of such activities on the rate of erosion and on natural protective features. It requires that careful analysis be made of such benefits and long-term costs prior to expending public funds for erosion protection measures.

See Policies 1, 2, 17, 19A, 21A.

POLICY 17 WHENEVER POSSIBLE, USE NON-STRUCTURAL MEASURES TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION. SUCH MEASURES SHALL INCLUDE: (1) THE SET BACK OF BUILDINGS AND STRUCTURES; (2) THE PLANTING OF VEGETATION AND THE INSTALLATION OF

**SAND FENCING AND DRAINING; (3) THE RESHAPING OF BLUFFS;
AND (4) THE FLOOD-PROOFING OF BUILDINGS OR THEIR
ELEVATION ABOVE THE BASE FLOOD LEVEL.**

Explanation of Policy

This policy 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.

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

1. The setbacks of buildings from steep riverbank and streambank areas;
2. The strengthening of coastal landforms by the retention or planting of appropriate vegetation and, where appropriate, by the installation of drainage systems to reduce runoff and internal seepage of waters which erode or weaken the landforms;
3. Whenever possible, the avoidance of risk or damage from flooding by the siting of buildings outside the hazard area; and
4. The flood-proofing of buildings or their elevation above the base flood level.

The installation of sand fencing, however, would generally not be appropriate for the Hudson River shoreline at Rhinebeck.

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 measures, whenever possible.

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

The sloping to steep earthen banks along the Hudson River are subject to land slides and erosion. These areas, and particularly the area near Suckley Cove, north of Jones Island, which is classified as an area of critical erosion, must be protected through site plan and/or subdivision review.

See Policies 1, 2, 11, 12, 14, 16, 21A, 22.

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 may only be undertaken in the waterfront area if they will not significantly impair valuable coastal waters and natural, cultural, scenic, historic, resources. Proposed actions must take into account the social, cultural, economic and environmental interests of the State and Town and its citizens in such matters that would affect natural resources, historic and scenic assets, water levels and flows, shoreline damage, hydro-electric power generation, and recreation. Any proposals to develop a power generating plant or major transmission lines, to withdraw water from the Hudson, or to construct a bridge across the Hudson, a limited access highway, an enlargement of the railroad right-of-way or operations, or to begin any other major project within the LWRA of the Town of Rhinebeck, adjacent towns or nearby areas, including the west bank of the Hudson, must be thoroughly examined to determine that there will be no significant negative impacts on the Town's residents or resources. All local agencies and the Waterfront Advisory Committee will abide by this policy in their environmental review of major activities.

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

It is important in the Town to protect, maintain and increase pedestrian and, where appropriate, vehicular access to public water-related recreation resources and facilities, including opportunities for swimming, boating (including excursion boats and ice boats), fishing and appreciation of scenic vistas. The major access problem in Rhinebeck involves crossing of the railroad tracks. The only public above-grade crossing (excluding the Kingston-Rhinecliff Bridge which takes travelers beyond the Rhinebeck shores) is located within the hamlet of Rhinecliff and has been a focus of Town

rehabilitation and improvement efforts for the past two to three decades. The private bridge at the Meadows provides the only other vehicular bridge in the Town. Currently at-grade crossing of the railroad tracks is required to reach Wilderstein Landing / Morton Dock, Long Dock, Slate Dock, and most of the Town's other potential waterfront areas. Improved access could be accomplished in the future by public, private or a combination of efforts.

This policy calls for a balance among the following factors: the level of access to a resource or facility; the capacity of a resource or facility; and the protection of natural resources.

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 resources and facilities shall neither be reduced, nor should the possibility of increasing access in the future from public lands or facilities to public water-related recreation resources and facilities be eliminated, unless there is a significant threat to public safety from a current or proposed use.
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 should 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.
 - c. The level or type of use shall be conditioned on the requirements of public safety.
3. A State or Federal agency 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. The following activities will not be permitted unless the actions are found necessary for, or to be of great benefit to, or for the common good of Town residents.
 - a. Construction of public facilities which physically prevent the provision of convenient public access to public water-related recreation resources and facilities.
 - b. 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.
 - c. Sale, lease, or other transfer of public lands that could provide public access to a public water-related recreation or facility.

5. 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.

Land use policies of the Town (see Section IV) and zoning districts (see Section V) must be evaluated in terms of traffic impacts, as well as in terms of effects on: protection of ground and surface waters; protection of historic and scenic areas; preservation of environmentally sensitive features; and development in coastal areas should be limited to levels that will not burden roads or cause congestion or safety problems. Continuation of the predominance of limited to low density zoning and maintenance of the low density residential and agricultural uses in the waterfront area will serve to lessen potential impacts of future traffic.

See Policies 20, 20A, 21, 21A, 21B, 22, 23A and 24B.

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.

Explanation of Policy

Access to the publicly-owned foreshore and adjacent land within the waterfront area shall be provided for water-related recreational activities, as well as for those activities which require only minimal facilities for their enjoyment. Examples of activities requiring access would include: boating, walking along the waterfront, the enjoyment of scenic resources, bicycling, bird watching, photography, nature study, hunting and fishing. In Rhinebeck there are two significant limitations to the extent of possible public access: (1) the railroad extends along the entire shore-line physically restricting safe and ready access to the foreshore and (2) several shorefront owners have been granted underwater rights to parcels west of and adjacent to the railroad and only a portion of the Town's foreshore has remained in public (State) hands.

The following guidelines 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 coastal 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 public benefit.

A reduction in the existing level of public access includes, but is not limited to, the following:

- a. 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.
- b. Pedestrian access is diminished or blocked completely by public or private development.

An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following:

- a. Construction of public facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities.
 - b. Construction of private facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities.
 - c. Sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters.
1. 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;
 - b. Adequate public or quasi-public access already exists in the vicinity; or
 - c. Agriculture would be adversely affected.

Such access shall not be required to be open to public use until a public agency or private association agrees to accept maintenance and liability responsibility for the accessway.

3. The Town, State, and Federal governments will not undertake or directly fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
4. Proposals for increased public access to coastal lands and waters shall be analyzed according to the following factors:
 - a. The level of access to be provided should 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.

5. Within the Hudson River waters of the Town, most underwater lands --- including the foreshore, tidal waters and submerged lands under tidal waters below the mean high water line --- are owned by the State under the Public Trust Doctrine, but the rights to some underwater lands are held by private owners whose lands abut the River. While publicly-owned lands shall be retained in public ownership, traditional sales of easements on lands underwater to adjacent onshore property owners could be consistent with this policy, provided such easements do not substantially 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 or the protection of fragile coastal resources.

In New York State, the courts have interpreted the Public Trust Doctrine to mean, when applied to recreation, that the public has the right to use public trust lands and waters for bathing, boating, fishing and other lawful purposes when the tide is in; and when the tide is out, to walk along the foreshore to gain access to the water for these purposes and to lounge and recline on the foreshore. Upland property owners whose lands abut public trust resources have certain rights of their own. The public cannot access public trust land across private land without the owner's permission. Additionally, these upland owners possess riparian rights to the Hudson River. These rights entitle the owner to access navigable water. These rights are however limited as to the type of use which may be placed in the water, and they must be reasonably exercised. By the nature of location over the water, the exercise of these rights almost always interferes with public use of the water and the lands subject to the Public Trust Doctrine.

In New York State, adjacent upland owners can also apply to purchase or lease underwater lands. While such acquisitions in the 18th and 19th centuries were generally of large expanses of public trust lands and waters to promote the development of commerce, more recent private uses of public trust lands include marinas, commercial fishing operations and recreational boating. While the courts have consistently recognized the Public Trust Doctrine as a sovereign right held for the people, they have also recognized the validity of grants of public trust lands to riparian owners. The courts have held that where some types of grants have been made by the State without any express reservation of the public rights, the public trust and accompanying public rights have been extinguished, although the State may still regulate such lands under its police power and may authorize local governments to do so as well. The courts have also held that some grants may be invalid if the grant is not in the public interest.

The importance of the Public Trust lands for public access and as a recreational resource and the use of the Public Trust Doctrine to better protect the State's coastal areas, their living resources, and the public's right to access and enjoy them have recently been re-emphasized. Private actions that interfere with the public's opportunity to use and enjoy these commercially and recreationally productive resources have increasingly come into question.

In 1992, the NYS Legislature passed Chapter 791, codifying, in part, the public trust in underwater lands. The Legislature found that regulation of projects and structures, proposed

to be constructed in or over State-owned land underwater, was necessary to responsibly manage the State's proprietary interests in trust lands. Additionally, the regulation would severely restrict alienation into private ownership of public trust lands owned by the State. The intent of the Act was to ensure that waterfront owners' reasonable exercise of riparian rights and access to navigable waters did not adversely affect the public's rights. The Legislature stated that use of trust lands is to be consistent with the public interest in reasonable use and responsible management of waterways for the purposes of navigation, commerce, fishing, bathing, recreation, environmental and aesthetic protection, and access to the navigable waters and lands underwater of the State.

Increased access to the publicly-owned foreshore will be sought through review of proposed site plans and subdivision plans for waterfront parcels and possible negotiation with developers of proposed projects, particularly where waterfront access sites have been identified (see Map 6, "Coastal Access Points" and the related inventory chart on Coastal Access Sites). In addition, the establishment of scenic lookout/parking areas such as the one proposed at Vanderburgh Cove will also increase opportunities for passive and active recreational use of the public foreshore areas.

See Policies 1, 2, 20A, 21A, 21B, 22, 24A, 24B.

POLICY 20A REASONABLE VEHICULAR ACCESS AND PEDESTRIAN ACCESS SHALL BE PROVIDED, WHENEVER FEASIBLE, TO THE PUBLICLY OWNED FORESHORE AND PUBLIC OWNERSHIP OR EASEMENT OVER ADJOINING LAND WILL BE PURSUED, WHERE APPROPRIATE.

Current access to the foreshore is extremely limited because of the location of the railroad relative to the Hudson shoreline and the development of estates lining the River, which have, for the most part, remained in private hands. For the future, there may be several methods of providing access in addition to the Town Landing area at Rhinecliff. These include: reinforcement of the 25-mile historic hike and bike trail, development of a complementary trail system (utilizing portions of the abandoned railroad bed extending northeastward from Rhinecliff to the Red Hook Town line); the provision of access across transportation facilities to the waterfront; and the promotion of mixed and multi-use development.

As mentioned also in the explanation to Policy 19, the Town has significant problems with gaining physical access to the water's edge. Town, County and State officials need to continue to work closely with railroad interests to assure that the rail corporation maintains and repairs the bridges over the railroad. Moreover, in the remainder of the Town, any crossing of the tracks must now be done at grade except at the Astor tunnel, the Town Landing, and the vehicular bridge at The Meadows (see chart of coastal access points in Inventory and Analysis Section).

As indicated in Policy 21B, it may be desirable in the future to develop other sites, such as Slate Dock, Long Dock and/or Morton's Dock to gain access to the publicly-owned foreshore and to establish water-related public/private recreational uses.

See Policies 1, 2, 21S, 21B, 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 PUBLIC 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, swimming, fishing, trapping and waterfowl hunting, as well as certain activities which are enhanced by a coastal location and increase the general public's access to the coast such as bike and other trails, picnic areas, scenic overlooks and passive recreation areas that take advantage of coastal scenery.

Since the railroad borders the entire shore of the Town, there are only limited opportunities for development of water-related recreation. Sites with potential for development or redevelopment of water-related recreation and/or public access to the water are included in the list of Coastal Access Sites in the Inventory and Analysis Section. Reservation of recreational lands shall be considered in the subdivision review process. Moreover, public -- Town, County, State or Federal -- acquisition of lands for recreational purposes shall be considered, as appropriate.

Because of the sensitive environmental conditions along portions of the Hudson River in Rhinebeck, new development or activities should generally not be intensive. Bicycling, hiking, walking and other forms of passive recreation would be desirable in some locations and boating facilities in others. Site specific studies will need to be done to determine the most appropriate use for coastal access sites named.

As part of the initial preparation of this LWRP, Rhinebeck's recreation areas and facilities and open space areas were inventoried and needed improvements were noted (see Inventory and Analysis Section). Improvements given priority include those at: (1) the Town Dock / Landing Area at Rhinecliff; and (2) the Town Recreation Center and Park. More recently, the Town and Village acquired the Rhineson property on the south side of Route 308 within the LWRA and has begun the development of a master plan for long-term recreational use of this property.

Efforts to improve recreation facilities shall be undertaken with consideration of several factors, including the following:

1. Provision of access to waterfront areas and facilities.
2. Improvement of areas heavily utilized by youth for sports activities and ballgames.
3. Improvement of areas used by all age groups and household types, ranging from very young children to senior citizens.
4. In general, encouragement of some centralization of recreational facilities; however, where desirable and appropriate, in order to preserve environmentally sensitive areas and to provide a variety of passive and active recreational opportunities, sites throughout the coastal area of the Town shall be included in the recreation/open space network.
5. Wherever possible, the connection of recreation and open space areas through an off-road trail system.

In addition, in developing and reviewing specific recreation facility proposals, the community will need to consider the following factors:

1. The amount, location, type, condition and use of existing water-related recreation facilities and the demand for additional facilities.
2. The location and type of existing and proposed residential, commercial and industrial development, and the degree of pressure for additional development.
3. The development of water-related recreation must be 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.
4. If 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.
5. Ensuring that proposals for large scale development to be located on the waterfront contain water-related recreation facilities as multiple uses whenever appropriate and practicable.
6. The extent of public and/or private financial resources available for acquiring lands for recreation purposes and developing specific facilities.

7. Priority for increasing water-related recreation opportunities shall be to those areas where access can be provided by new or existing public transportation and those areas where use of the shore is severely restricted by railroads.
8. The siting or design of new development in a manner which would result in a barrier to the recreational use of a major portion of the Town's shore should be avoided as much as possible.
9. Provision of adequate boating services to meet future demand is a priority to be encouraged. The siting of boating facilities must be consistent with preservation and enhancement of other coastal resources and with their capacity to accommodate demand. The provision of new public boating facilities is essential in meeting this demand, but such public actions should avoid competition with private boating development if any is established in the Town of Rhinebeck. Boating facilities will, as appropriate, include parking, areas for excursion boat dockage and ice boating, park-like surroundings, toilet facilities, and pump-out facilities.

See Policies 1, 2, 20, 21A, 21B and 22.

POLICY 21A PROTECT, MAINTAIN, AND INCREASE FACILITIES AVAILABLE AT THE RHINEBECK DOCK TOWN/LANDING TO PROVIDE PUBLIC ACCESS FOR WATER-RELATED RECREATION ACTIVITIES INCLUDING FISHING, BOATING AND EXCURSION VESSEL DOCKAGE.

The Rhinebeck Dock / Town Landing area provides the only direct public waterfront access in the Town. Boat launching and docking areas have been provided and further improvements continue to be undertaken to stabilize portions of the site and to furnish additional areas and amenities for passive recreational activities, such as picnicking and viewing the scenic vista. The landing area can be used by excursion passenger vessels and special visitors like the Clearwater, in the interest of promoting education and the tourist economy.

Priority will be given to improving physical access to, and facilities available at, this existing Town waterfront recreation site. Efforts will be made to increase the ability of the public to get to this recreation area by making necessary transportation improvements, e.g., providing bus routes and restoring ferry service to the dock area. At this time, there is barely sufficient parking available near the Town Dock; the Town is requesting that appropriate agencies enlarge the parking area so that parking space will correspond to recreational use needs.

Since the Town Landing provides resources and facilities including boating facilities, fishing areas and a waterfront park, it shall receive priority for Town, State and Federal funding opportunities.

See Policies 1, 2, 7C, 9, 20A, 21B, 22, 35, 44.

POLICY 21B EXPLORE THE FEASIBILITY OF UTILIZING WATERFRONT ACCESS AREAS SUCH AS WILDERSTEIN LANDING/MORTON'S DOCK, SLATE DOCK, OR LONG DOCK AREAS FOR PUBLIC AND/OR PRIVATE

WATER-RELATED AND/OR WATER-ENHANCED RECREATIONAL PURPOSES SUCH AS BOAT-LAUNCHING SITES, FISHING AREAS AND WATERFRONT PARKS.

The Wilderstein Landing/Morton Dock area is expected to be improved as part of the restoration efforts at the Wilderstein estate.

Long Dock and Slate Dock areas located slightly north of Rhinecliff (see Map 6), currently owned by CSX, are in poor condition and in need of refurbishing or redevelopment. Any major development would require construction of a bridge across the railroad tracks. The development of a waterfront walkway (or boardwalk) from the Town Dock to Slate Dock and ultimately to Long Dock would provide an important amenity along the riverfront.

Priority should be given, therefore, to recreational development of the Wilderstein Landing/Morton's Dock, Slate Dock, or Long Dock areas as the primary use or as a multiple use of the parcels, particularly since use of most of the shore of Rhinebeck is severely restricted by the presence of the railroad.

Public access to the Hudson River at regular intervals should be accomplished by various means including acquisition of parcels through gift or purchase, acquisition of easements or through subdivision regulation and/or site plan review requiring provision of recreation lands and/or public access as part of the development plan.

See Policies 1, 2, 19, 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

In Rhinebeck, railroad tracks parallel the Hudson River shore, so that construction of a safe means to cross the tracks must be an integral part of plans for River water-related recreation.

Some developments may present opportunities for providing recreation facilities as an additional use of the site or facility. Therefore, whenever developments are located along the shore, they should, to the fullest extent permitted by existing law, provide for 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. Parcels located adjacent to streams or coves would have fewer access problems than those associated with riverfront parcels; however, the types of water-related recreation opportunities would differ somewhat.

The types of development which can generally provide water-related recreation as a multiple use include, but are not limited to, parks, highways, utility transmission rights of way, sewage treatment facilities, hospitals*, schools and universities*, nature preserves*, major residential subdivisions (5 building lots or more), and office buildings.

The types of recreation uses likely to be compatible with hospital, university, and nature preserve facilities are limited to the more passive forms, such as trails or fishing access. In some cases, land areas not directly or immediately needed by the facility could be used for recreation.

In determining whether compelling reasons exist which would make recreation inadvisable as a multiple use, public safety should reflect recognition that some risk is acceptable in the use of recreation facilities.

Whenever a proposed development is compatible with the natural and built environments of the Town and 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 should be encouraged to locate adjacent to the shore. Such developments in Rhinebeck might include the reuse or redevelopment of the large waterfront estates along the Hudson, of dock areas such as Long Dock and Slate Dock (currently owned by CSX), Wilderstein Landing / Morton Dock or other access points listed in the inventory, or of properties along the streams of the Town, such as the Millpond area of the Landsman Kill. The provision of water-related recreation shall be encouraged and/or required, if appropriate, as a multiple use through review of site plans and subdivision plans. This review will include consideration of the use of clustered development to protect sensitive environmental features and to provide areas for public access. Moreover, if practical, water-related recreation shall be available for public use.

Factors for consideration in examining recreational proposals listed in Policy 21 should be utilized for examining the recreation component of a proposed mixed-use development.

See Policies 1, 2, 20A, 21, 21A and 21B.

HISTORIC AND SCENIC RESOURCES POLICIES

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

Explanation of Policy

Structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the Nation comprise the following resources:

1. A resource, which is in a Federal or State park established, among other reasons, to protect and preserve the resource.
2. A resource on, nominated to be on, or determined eligible to be on the National or State Registers of Historic Places.
3. A resource designated by the State Nature and Historic Preserve Trust.
4. An archaeological resource which is on the State Department of Education's inventory of archaeological sites or identified by the State Office at Parks, Recreation and Historic Preservation.
5. A designated local landmark, a park, or locally designated historic district that is located within the boundary of the Rhinebeck Local Waterfront Revitalization Area / Mid-Hudson Historic Shorelands Scenic District.

All practicable means to protect structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the Town, the State, its communities or the Nation include the consideration and adoption of any techniques, measures, or controls to prevent a significant adverse change to such significant structures, districts, areas or sites.

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 archaeological resource, or component thereof. Such features are defined as encompassing the style and general arrangement of the exterior of a structure and any original or historically significant interior features including type, color and texture of building materials; entry ways and doors; fenestration; lighting fixtures; roofing, sculpture and carving; steps; rails; fencing; windows; vents and other openings; grillwork; signs; canopies; and other appurtenant fixtures and, in addition, all buildings, structures, outbuildings, walks, fences, steps, topographical features, earthworks, paving and signs located on the designated resource property. (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 archaeological resource or component thereof, to include all those features described in (a) above plus any other appurtenant fixtures associated with a building structure or earthwork.
3. All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archaeological 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 a judgment about compatibility should focus on the visual and location relationship between the proposed action and the special character of the historic, cultural, or archaeological resource. Compatibility between the

proposed action and the resource means that the general appearance of the resource should 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 archaeological resource which has been officially certified as being imminently dangerous to life or public health. Further, this 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 archaeological resource.

In 1979 a sixteen-mile long area, encompassing the riverfront estates in the Towns of Germantown, Red Hook, Rhinebeck and Hyde Park, was surveyed by the preservation organization, Hudson River Heritage, in an effort to document historic sites and facilitate the preservation of the area's riverfront estate properties. This work, which did not include the hamlets, became the foundation of a State and Federal designation to be known as the Sixteen-Mile Historic District, later expanded to the Twenty Mile Historic District.

In 1990 further efforts by Hudson River Heritage elevated the district to Landmark status, becoming The Hudson River National Historic Landmark District. At that time in Rhinebeck the boundaries were expanded to include the hamlet of Rhinecliff and encompass land within the bounds of Hook Road, Route 9 north of the Village, the west side of the Village, excepting the site of The Gardens multi-family development between Astor Drive and Route 308, and south down Route 9 to the town line.

About 400 buildings in the Village of Rhinebeck have also been designated as a historic district, which was placed on the National Register of Historic Places in 1979. There are also a number of individual residences and other structures of historic interest located throughout the Town and the hamlet of Rhinecliff that were incorporated into the Rhinebeck Multi-Resource Area Historic District (1987), including Grasmere, which have been listed on the National Register. In addition, Wilderstein, the Quitman House, the Old Stone Church and the Palatine Farmstead, the latter three located to the north of the LWRA, have been designated as "local landmarks" by the Town of Rhinebeck.

Most of these individual estate and rural residences would meet the National Register criteria as distinctive architectural specimens and may assume additional importance from the roles that their occupants played in State and national history. However, the special significance of the area is collectively derived from the great number of properties involved and its location along the Hudson River. The views of the River and the Catskill Mountains add a scenic dimension which rivals and enhances its historic and architectural significance.

Over the past few years steps have been planned or taken to upgrade several properties consistent with the above guidelines. A list of those being restored and expected to be restored in the near future are included in the Inventory and Analysis Section. Careful restoration/preservation efforts and appropriate reuse of historic structures, estate buildings and grounds will continue to be encouraged, especially those visible from the Hudson River or major travelled roads.

Plans for more profitable re-use of some of these estates, such as a conference center, have been considered. Well designed adaptive re-use plans which respect the historic landscape features and preserve the character of natural lands will be encouraged, particularly those which include preservation of structures, landscaped grounds and a means for crossing the railroad tracks and facilities for public water-related recreation.

Most of the Local Waterfront Revitalization Area along the Hudson River shoreline of the Town (excluding the Rhinecliff hamlet area) is zoned Residential 5-Acre (R5A) District. This limited density zoning classification assists the Town in preserving its rural, low density qualities and appearance and in protecting the scenic, historic and natural features of the waterfront areas of the Town. Permitted uses in the R5A District include primarily agriculture, conservation and forestry uses, private stables, one- and two-family dwellings (preferably in cluster configuration), home occupations and government buildings. Special permit uses in this District include elderly housing, alternate care housing; cemetery; crematorium; educational institutions; golf course; hospital; conference center; rod and gun club; waterfront uses such as marinas, boat clubs, docks and ramps. This range of uses provides opportunity for adaptive re-use of historic estates which helps to preserve the historic and scenic areas of the Town.

Efforts of local and regional groups working to preserve and enhance the scenic and historic features of the Local Waterfront Revitalization Area, such as the Hudson River Shorelands Task Force, Hudson River Heritage, Inc., Heritage Task Force for the Hudson River Valley Inc., Wilderstein Preservation, Inc., Rhinebeck Historical Society and Scenic Hudson, Inc. have been made throughout the past three decades. Their continuing efforts and the efforts of other interests which have evolved in the interim, including The Winnakee Land Trust (successor to the Hudson River Shorelands Task Force), the Quitman Resource Center for Preservation and the NYS Hudson River Valley Greenway, will be supported.

Many techniques will be utilized to implement this policy including but not limited to:

1. Establishing historic preservation programs which will be initiated to make and keep residents aware of technical and funding assistance or tax benefits that could be received for historic preservation efforts on designated significant structures, or for certain new business enterprises within the coastal area, and provide or coordinate provision of low cost loans for preservation of historic structures;
2. Site plan and subdivision review;
3. Use of conservation easements and/or facade easements; and

4. Administration of the Town of Rhinebeck's newly-enacted Historic Buildings Protection Law (2005). See Appendix D.

See Policies 1, 1A, 2, 23A, 24A, 24B.

POLICY 23A CONSERVE, PROTECT, PRESERVE AND PROMOTE THE ADAPTIVE RE-USE OF PLACES, SITES, STRUCTURES, VIEWS AND FEATURES IN THE COASTAL AREA OF THE TOWN OF RHINEBECK OF SPECIAL HISTORIC, CULTURAL OR ARCHAEOLOGICAL SIGNIFICANCE OR WHICH BY REASON OF ASSOCIATION WITH NOTABLE PERSONS OR EVENTS, THE ANTIQUITY OR UNIQUENESS OF ARCHITECTURAL AND LANDSCAPE DESIGN ARE OF PARTICULAR SIGNIFICANCE TO THE HERITAGE OF THE TOWN.

A majority of the sites, structures, buildings and features in the waterfront area of the Town, which contribute to the historic and scenic character of the area, have been listed on the State or National Registers of Historic Places, whether by individual listing or inclusion within the Hudson River National Historic Landmark District. Additional buildings, sites, cemeteries and other features that need to be protected and preserved may be important locally and contribute to the historic and scenic qualities of the Town.

Public and private efforts will be undertaken to maintain and preserve the important features of the area, such as the trees and stone walls lining many roads within the LWRP area. Education programs will be established on techniques for preservation and repair of stone walls. Existing stone walls, stone culverts and bridges, and trees along roads shall also be protected through such measures as setting up a public/private maintenance program for wall repair and stabilization; working with highway/transportation departments to plan road improvements together with the protection of these features; and making their preservation a priority in site plan and subdivision review. Trees and walls will be protected along scenic roads by requiring the provision of scenic easements along the roads. Workshops such as those conducted during the past two years by the Quitman Resource Center on repairing and maintaining stone walls will be encouraged.

See Policies 1, 1A, 2, 23, 24A, 24B.

SCENIC QUALITY POLICIES

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 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.

POLICY 24A PREVENT IMPAIRMENT OF SCENIC RESOURCES INCORPORATED WITHIN THE MID-HUDSON HISTORIC SHORELANDS SCENIC DISTRICT AND THE ESTATES DISTRICT SCENIC AREA OF STATEWIDE SIGNIFICANCE.

The following siting and facility-related guidelines will be used to review proposed development, and should be included in the design of new projects to avoid impairment of scenic resources, recognizing that each development situation is unique and that guidelines will have to be applied accordingly:

1. Siting structures and other development such as highways, power lines, and signs, back from shorelines, roadways, or in other inconspicuous locations to maintain the attractive quality of these areas and to retain views to and from important resources;
2. Clustering or orienting structures to retain views, save open space and provide visual organization to a development;
3. Incorporating structurally sound, existing structures (especially historic buildings) into the overall development scheme;
4. Removing deteriorated and/or degrading features;
5. Maintaining or restoring the original land form and vegetation, except when changes screen unattractive features and/or add appropriate interest;
6. Maintaining or adding vegetation and appropriately pruning or trimming trees to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive features, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of important resources such as historic resources, open lands, the Catskill Mountains or the Hudson River;
7. Maintaining and enhancing landscaped grounds of estate areas;
8. Wherever possible, placing utility lines underground or minimizing the number of poles by combining wires to the extent possible to diminish negative visual impacts;
9. Maintaining and preserving stone walls, gateways to estates and landscape features along roadways;

10. Using appropriate scales, forms and materials to ensure buildings and other structures are compatible with and add interest to the landscape;
11. Minimizing the effects, as much as possible, of facility operation (i.e., lighting, noise and odor); and
12. Providing waterfront access whenever possible.

The Scenic District Handbook and the Town of Rhinebeck Design Standards, each incorporating many of the above guidelines, will be utilized in the review of projects.

The State-designated Mid-Hudson Historic Shorelands Scenic District, which is co-terminus with the Local Waterfront Revitalization Area of the Town, contains several historic districts noteworthy for their historic and scenic qualities. The historic aspects are discussed in the Inventory and Analysis section and under Policy 23.

The Sixteen Mile Historic District, later expanded to the Hudson River National Historic Landmark District and listed on the National Register of Historic Places, contains a series of estates along the River which are scenic resources of great worth based primarily on the architecture of the structures, the landscaped grounds and open space surrounding the primary buildings, and the scenic views of the Hudson River and the Catskill Mountains. These estates and other historic structures, such as those in the Town of Rhinebeck Multi-Resource Area Historic District included on the National Register, need to be protected and enhanced. Any re-use or redevelopment of the east bank estates will follow the guidelines set forth above. Identification and protection of existing trees of a significant size, that is eight inches or over in diameter, and of stone walls will be required through special permit, site plan and subdivision review requirements. Limitations on signs as to type, size and placement is regulated through the zoning ordinance. In addition, efforts will be undertaken through the environmental review process to attempt to protect the viewscape on the west bank of the River from any significant deterioration or alteration.

Portions of the Orlot and Atalanta (former Mandara) estates which are plainly visible from the Kingston-Rhinecliff Bridge and from the Hudson River are scenic resources of the utmost significance and visual accessibility and sensitivity. Any proposed plans for any development of these two estates will be reviewed with consideration of preserving these scenic resources.

In addition, the public benefit of restoring or maintaining wide views of the River from overlook areas on such estates as Linwood and Wilderstein should be recognized. Judicious tree trimming will be necessary to provide scenic vistas while protecting the environment.

Views and scenic vistas must be protected wherever they occur in the coastal area. Most of Rhinebeck's vistas are located along the "scenic roads" of the Town, but one major vantage point is at the top of Ferncliff Forest. There is an observation tower located at the top of Ferncliff Forest, but it is currently in a state of disrepair. Efforts need to be undertaken to protect Ferncliff Forest, a

significant habitat area (see Policy 7A), to restore the observation tower, if feasible, and to carry out selective cutting of vegetation to enhance the vistas.

In addition, efforts will be undertaken to establish a Town program comparable to the Village programs for tree planting and preservation. Existing trees of a significant size (with a caliper of eight inches in diameter or more), hearty and of non-invasive species shall be protected through site plan and subdivision review.

See Policies 23, 23A, 25.

POLICY 24B PROTECT AND ENHANCE THE SCENIC QUALITIES OF ROADS IN THE TOWN NOMINATED AS SCENIC ROADS UNDER THE HUDSON VALLEY SCENIC ROADS PROGRAM AND THOSE DESIGNATED AS SCENIC ROADS BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

The Heritage Task Force for the Hudson River Valley, Inc., established by the New York State Department of Environmental Conservation in 1980, was responsible for the preparation of the study to nominate scenic highways in the Hudson River Valley and develop programs for their preservation and enhancement. These roadways plus others identified by the Town Board, listed in the Inventory and Analysis Section, are considered important cultural and scenic features in the landscape which provide a means of visual and physical access to the Hudson River. The goals of the Scenic Roads Program are appropriate to this LWRP policy: preserve and enhance the appearance of the roadways and surrounding areas, provide opportunities for better viewing of scenic vistas, create a greater public awareness of the importance of the scenic resources and recommend preservation and enhancement measures.

In 1985, the State Department of Environmental Conservation designated four roads in the Town as scenic roads; Route 199 (from and including the Kingston-Rhinecliff Bridge to Route 9G), River Road, Morton Road, Mill Road and South Mill Road.

Full appreciation of scenic roads and vistas is usually difficult because there are no pull-offs along roads where one can enjoy them; some roads are very narrow or in disrepair; important resources have not been well preserved; and vegetation and stone walls which give these roadways their unique character have not been well maintained. The development and continuation of programs dedicated to protecting and enhancing these resources is important to preserving the unique character of Rhinebeck.

Various local and State agencies, including the Town Board, the Town Highway Department, the County Department of Public Works and the State Department of Transportation need to coordinate efforts to: (1) provide pull-offs to view scenic vistas at appropriate locations and to (2) improve conditions of scenic roads that may be too narrow or dangerous, e.g. River Road, Astor Drive, South Mill Road and Rhinecliff Road, without extensive widening, substantial grading or rebuilding that would jeopardize specimen trees and stone walls. In addition, local boards need to work with the

abovementioned highway, public works or transportation departments, as well as local utility companies (Central Hudson Gas and Electric and local communication carriers) to protect and enhance the scenic qualities of the scenic roads by careful trimming and pruning trees along roads and by placing utilities underground whenever practicable. The Scenic Roads Handbook and Maintenance and Management Guidelines for Scenic Roads will be used by State, County, and Town officials and applicants.

Where pull-offs are created on State roads, the Town will be responsible for their maintenance.

POLICY 24C PREVENT IMPAIRMENT OF THE ESTATES DISTRICT AND ESOPUS/LLOYD SCENIC AREAS OF STATEWIDE SIGNIFICANCE.

Explanation of Policy

The Town of Rhinebeck is included in both the Estates District Scenic Area of Statewide Significance and Esopus/Lloyd Scenic Area of Statewide Significance (SASS), as designated by the Secretary of State. The Estates District and Esopus/Lloyd SASS are of statewide aesthetic significance by virtue of the combined aesthetic values of landscape character, uniqueness, public accessibility and public recognition. There exists in each SASS an unusual variety as well as unity of major components and striking contrasts between scenic elements. Each SASS is generally free of discordant features. The section of the Estates District SASS within the Town of Rhinebeck is included within the following subunits:

- ED-10 Astor Cove
- ED-11 River Road
- ED-12 Mount Rutsen,
- ED-13 Rhinebeck Center
- ED-14 Rhinecliff Road
- ED-15 Rhinecliff
- ED-16 Rhinecliff Woods
- ED-17 Mill Road Meadows
- ED-18 Vanderburgh Cove

The section of the Esopus/Lloyd SASS within the Town of Lloyd is included within the following subunits:

- EL-1, Big Rock and Hemlock Points
- EL-2, Esopus Uplands
- EL-3, Esopus Bluffs

The scenic quality of these subunits and actions which could impair their quality are described in detail in Appendix A.

When considering a proposed action, agencies shall determine whether the action could affect the Estates District or Esopus/Lloyd SASS and, if so, whether the types of activities proposed would be likely to impair the quality of an identified resource. Impairment includes:

- (i) 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
- (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.

The following siting and facility-related guidelines will be used to review proposed development, redevelopment or re-use plans and should be included in the design of new projects to avoid impairment of scenic resources, recognizing that each development situation is unique and that guidelines will have to be applied accordingly. These guidelines are further specified in the impact assessments contained in the narratives of the SASS and each of its subunits, presented in Appendix A.

1. Siting structures and other development such as highways, power lines, and signs, 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;
2. Clustering or orienting structures to retain views, save open space and provide visual organization to a development;
3. Incorporating sound, existing structures (especially historic buildings) into the overall development scheme;
4. Removing deteriorated and/or degrading elements;
5. Maintaining or restoring the original land form, except when changes screen unattractive elements and/or add appropriate interest;
6. 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;
7. Using appropriate materials, in addition to vegetation, to screen unattractive elements; and
8. 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

Because of the NYSDOS designation as the Estates District Scenic Area of Statewide Significance and the Esopus/Lloyd Scenic Area of Statewide Significance and because the entire Local Waterfront Revitalization Area of Rhinebeck is co-terminus with the DEC-designated Mid-Hudson Historic Shorelands Scenic District, the scenic resources of this waterfront area are discussed under policies 24A, 24B, and 24C as local resources of State-wide significance.

See Policies 24, 24A, 24B, and 24C.

AGRICULTURAL LANDS POLICY

POLICY 26 TO CONSERVE AND PROTECT AGRICULTURAL LANDS IN THE STATE'S COASTAL AREA, AN ACTION SHALL NOT RESULT IN A LOSS, NOR IMPAIR THE PRODUCTIVITY, OF IMPORTANT AGRICULTURAL LANDS, AS IDENTIFIED ON THE COASTAL AREA MAP, IF THAT LOSS OR IMPAIRMENT WOULD ADVERSELY AFFECT THE VIABILITY OF AGRICULTURE IN AN AGRICULTURAL DISTRICT OR IF THERE IS NO AGRICULTURAL DISTRICT, IN THE AREA SURROUNDING SUCH LANDS.

Land used for agriculture can be found throughout the waterfront area of the Town. Many of the farms are included in the State agricultural district program (see Map 10, "Summary of Major Development Considerations") pursuant to the NYS Agriculture and Markets Law. Under this program, farmers grossing over \$10,000 in income from agricultural activity can benefit from reduced land assessments if they make a commitment to farming that land for at least eight years. This program alleviates some of the pressure for residential or commercial development because of increasing land values and rising taxes. By reducing some of the financial burden facing farmers today, the Town will promote the conservation of agricultural lands and the preservation of agriculture as a local industry.

Implementing a policy of promoting agricultural use of land must concentrate on controlling the replacement of agricultural land uses with non-agricultural land use as the result of some public action. Many factors such as markets, taxes, and regulations, which influence the viability of agriculture in a given area, can only be addressed on a Statewide or national basis.

This policy requires a concern for the loss of any important agricultural land.* However, the primary concern must be with the loss of agricultural land when that loss would have a significant effect on

an agricultural area's ability to continue to exist, to prosper, and even to expand. In the Town of Rhinebeck, there is also concern for the maintenance of agricultural lands which are a component of "pastoral landscapes" in the Scenic District Management Plan and contribute to the scenic qualities of the shorelands areas.

* Important agricultural land shall include all land within an agricultural district or subject to an eight-year commitment which has been farmed within at least two of the last five years, or any land farmed within at least two of the five years in soil groups 1-4 as classified by the Land Classification System established by the New York State Department of Agriculture and Markets, or any land farmed within at least two of the last five years which is influenced by climate conditions which support the growth of high value crops. Additionally, agricultural land not meeting the above criteria but located adjacent to any such land and forming part of an on-going agricultural enterprise shall be considered important agricultural land.

A series of determinations are necessary to establish whether a public action is consistent with the conservation and protection of agricultural lands, or whether it is likely to be harmful to the health of an agricultural area. First, it must be determined whether a proposed public action would result in the loss of important agricultural lands as mapped on the Coastal Inventory (See the aforementioned Map 10 for lands within an agricultural district and Map 4, "Natural Resources Inventory", for areas with prime agricultural soils). If it would not result, either directly or indirectly, in the loss of identified important agricultural lands, then the action is consistent with this policy. If it is determined that the action would result in a loss of identified important agricultural lands, but that loss would not have an adverse effect of the viability of agriculture in the surrounding area, the action may also be consistent with this policy. In that case, however, the action must be undertaken in a manner that would minimize the loss of important farmland. If the action is determined to result in a significant loss of important agricultural land, that is if the loss is to a degree sufficient to adversely affect surrounding agriculture's viability -- its ability to continue to exist, to prosper, and even to expand -- then the action is not consistent with this policy.

The following guidelines define what needs to be considered when determining the impact of a publicly-supported activity on agricultural lands:

1. A public action would be likely to significantly impair the viability of an agricultural area in which identified important agricultural lands are located if:
 - a. The action would occur on identified important agricultural land and would either (1) consume more than 10% of the land of an active farm* containing such identified important agricultural lands, (2) consume a total of 100 acres or more of identified important agricultural land, or (3) divide an active farm with identified important agricultural land into two or more parts, thus impeding efficient farm operation.

* A farm is defined as an area of at least 5 acres devoted to agricultural production as defined in the Agricultural District Law and from which agricultural products have yielded gross receipts of \$10,000 in the past year.

- b. The action would result in environmental changes which may reduce the productivity or adversely affect the quality of the product of any identified important agricultural lands.
 - c. The action would create real estate market conditions favorable to the conversion of large areas of identified important agricultural land to non-agricultural uses. Such conditions may be created by:
 - 1). Public water or sewer facilities to serve non-farm structures.
 - 2). Transportation, improvements, except for maintenance of, and safety improvements to, existing facilities, serving non-farm or non-farm related development.
 - 3). Major non-agribusiness commercial development adjacent to identified agricultural lands.
 - 4). Major public institutions.
 - 5). Residential uses other than farm dwellings.
 - 6). Any change in land use regulations applying to agricultural land which would encourage or allow uses incompatible with the agricultural use of the land.
2. The following types of facilities and activities should not be construed as having adverse effects on the preservation of agricultural land:
- a. Farm dwellings, barns, silos, and other accessory uses and structures incidental to agricultural production or necessary for farm family supplemental income.
 - b. Agribusiness development, which includes the entire structure of local support services and commercial enterprises necessary to maintain an agricultural operation, e.g., milk hauler, grain dealer, farm machinery dealer, veterinarian, food processing plants.
3. In determining whether an action that would result in the loss of farmland is of overriding regional or Statewide benefit, the following factors should be considered:

For an action to be considered overriding, it must be shown to provide significantly greater benefits to the Town, region or State than are provided by the affected agricultural area (not merely the land directly affected by the action). In determining the benefits of the affected agricultural land to the region or State, consideration must be given to its social and cultural value, its economic viability, its environmental benefits, its existing and potential contribution to food or fiber production in the State and any State food policy, as well as its direct economic benefits.

- a. An agricultural area is an area predominantly in farming and in which the farms produce similar products and/or rely on the same agribusiness support services and are to be a significant degree economically inter-dependent. At a minimum, this area should consist of at least 500 acres of identified important agriculture land. For the purpose of analyzing impacts of any action on agriculture, the boundary of such area need not be restricted to land within the coastal boundary. If the affected agricultural lands lie within an agricultural district then, at a minimum, the agricultural area should include the entire agricultural district.
- b. In determining the benefits of an agricultural area, its relationship to agricultural lands outside the area should also be considered.
- c. The estimate of the economic viability of the affected agricultural area should be based on an assessment of:
 - 1). soil resources, topography, conditions of climate and water resources;
 - 2). availability of agribusiness and other support services, and the level and condition of investments in farm real estate, livestock and equipment;
 - 3). the level of farming skills as evidenced by income obtained, yield estimates for crops, and costs being experienced with the present types and conditions of buildings, equipment, and cropland;
 - 4). use of new technology and the rates at which new technology is adopted;
 - 5). competition from substitute products and other farming regions and trends in total demand for given products; and
 - 6). patterns of farm ownership for their effect on farm efficiency and the likelihood that farms will remain in use.
- d. The estimate of the social and cultural value of farming in the area should be based on an analysis of:
 - 1). the history of farming in the area;
 - 2). the length of time farms have remained in one family;
 - 3). the degree to which farmers in the area share a cultural or ethnic heritage;
 - 4). the extent to which products are sold and consumed locally; and
 - 5). the degree to which a specific crop(s) has become identified with a community.

- e. An estimate of the environmental benefits of the affected agriculture should be based on analysis of:
 - 1). the extent to which the affected agriculture as currently practiced provides a habitat or food for wildlife;
 - 2). the extent to which a farm landscape adds to the visual quality of an area;
 - 3). any regional or local open space plans, and degree to which the open space contributes to air quality; and
 - 4). the degree to which the affected agriculture does, or could, contribute to the establishment of a clear edge between rural and village or hamlet development.
- 4. Whenever a proposed action is determined to have an insignificant adverse effect on identified important agricultural land, or whenever it is permitted to substantially hinder the achievement of the policy according to DOS regulations, Part 600, or as a result of the findings of an EIS, then the required minimization should be undertaken in the following manner:
 - a. The proposed action shall, to the extent practicable, be sited on any land not identified as important agricultural, or, if it must be sited on identified important agricultural land, sited to avoid classes of agricultural land according to the following priority:
 - 1). prime farmland in orchards or vineyards;
 - 2). unique farmland in orchard or vineyards;
 - 3). other prime farm land in active farming;
 - 4). farmland of Statewide importance in active farming;
 - 5). active farmland identified as having high economic viability;
 - 6). prime farmland not being farmed; and
 - 7). farmland of Statewide importance not being farmed.
 - b. To the extent practicable, agricultural use of identified important agricultural land not directly necessary for the operation of the proposed non-agricultural action should be provided for through such means as lease arrangements with farmers, direct undertaking of agriculture, or sale of surplus land to farmers. Agricultural use of such land shall have priority over any other proposed multiple use of the land.

The following activities would be considered appropriate in pursuing this policy:

- a. Use of clustering to preserve areas suitable for agriculture and to allow for a critical mass of land area necessary for the continuation of agriculture.
- b. Support of the agricultural district program which reduces assessments on farmland within the district.
- c. Use of large lot, very low density, zoning.
- d. Encouragement, e.g., through zoning, of a variety of agricultural activities, including breeding of race horses and raising of cattle, growing nurseries, orchards, vineyards and horticultural production from commercial greenhouses which will help maintain and/or strengthen the agricultural sector of the Town's economy.
- e. Use of conservation easements to protect significant portions of farms.
- f. Use of transfer or acquisition/purchase of development rights to promote continuation of farming activities.

See Policies 1, 2, 22, 25.

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

Demand for energy in New York will increase, although at a rate lower than previously predicted. The State expects to meet these energy demands through a combination of conservation measures; traditional and alternative technologies; and use of various fuels, including coal, in greater proportion.

A determination of public need for energy is the first step in the process for siting new facilities. The directives for determining this need are set forth in the New York State Energy Law. With respect to transmission lines, Articles VII of the State's Public Service Law requires additional forecasts and establishes the basis for determining the compatibility of these facilities with the environment and the necessity for a shorefront 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 Resources and Inland Waterways Act. That Act is used for the purposes of ensuring consistency with the Coastal Management Program.

In consultation with the Town, the Department of State will comment on the State Energy Master Plan; present testimony for the record during the relevant certification proceedings under State law; and use the State SEQR and DOS regulations to ensure that decisions on other proposed energy facilities (other than those certified under the Public Service Law) which would impact the waterfront area, are made consistent with policies and purposes of this Local Waterfront Revitalization Program.

See Policies 1, 2, 7A, 18, 30,40.

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

Before taking any actions required for ice management, the potential effects of such actions will be carefully considered. If such actions have an adverse effect on the production of hydroelectric power; fish, wildlife or their habitats; flood levels and damage; shoreline erosion; and/or other natural or protective features, adequate methods of mitigation or avoidance of potential negative effects will be utilized.

In addition, site plan review of any waterfront development shall consider prevention of damage from ice and methods to prevent icing of near-shore waters, such as use of bubbler machines especially around docks and marinas, if appropriate. However, since ice skating and ice boating are popular winter sports in the Town, consideration will be given to leaving some or most coastal access areas in an undisturbed state to allow for enjoyment of these activities. Moreover, recognizing that there is a need to maintain navigation on the River, efforts will be made to minimize disruption of ice used for these recreational activities.

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

Explanation of Policy

This policy is not applicable. The types of energy resources addressed by this policy are not likely to be found in the Hudson River.

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 waterways of the Town or State. The Town utilizes the Hudson River water for drinking water and recreational purposes.

Currently only the Village of Rhinebeck, an adjacent area within the Town-outside-Village on which is being developed The Gardens multi-family residential development, and the area of Vanderburgh Cove are served by a public sewage system and associated treatment plant. Most other development is served by individual septic systems; a few institutional uses have private treatment plants.

Implementation of this policy is primarily the responsibility of the State and Federal agencies administering water quality standards, and is mandated by the following laws: State Pollution Discharge Elimination System (Environmental Conservation Law, Article 17, Title 8), Industrial Hazardous Waste Management (ECL, Article 27, Title 9), Substances Hazardous to the Environment (ECL, Article 37) and the State Certification of Public Sewage Treatment Plant Operations (ECL, Article 3-0301, Public Health Law, Section 225). Implementation of these laws is critical since pollution from sources outside the Town, as well as inside could significantly affect the water resources. Of particular concern are discharges of industrial plants north of the Town.

Moreover, proposed new commercial and industrial developments within the waterfront area will be reviewed through site plan and environmental quality review to ensure the adequacy of the existing water supply and sewage disposal facilities to support them, as well as to ensure that any underground storage tanks are constructed of non-corrosive materials to prevent leakage. Wherever possible or desirable, necessary improvements and expansions will be made in areas where the water or sewer system is inadequate. Priority will be given to water and sewer projects which will eliminate or prevent the discharge of pollutants into the Hudson River, its tributaries and other water resources, e.g., extending the sewer service to Rhinecliff to solve problems created by faulty individual septic systems.

In the past, the railroad's vegetation management and railroad tie disposal practices have caused pollution and disturbance of the Town's wetland cove areas. Use of pesticides and herbicides must

be reduced and, if possible, eliminated and used ties must be properly removed from the roadbed area.

See Policies 7A and 33.

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 reviewable at least every three years for possible revision or amendment. Local Waterfront Revitalization Programs and State coastal management policies shall 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 streams of the Town are generally classified as "C" or "D" waters, which permits use for fishing, but not swimming. The Landsman Kill is classified "D" from Crystal Lake to, and including, the Millpond area and is classified "C" from south of the Millpond to Vanderburgh Cove, whereas the Rhinebeck Kill, Fallsburg Creek and the Mudder Kill are classified "D". Crystal Lake in the Village of Rhinebeck, actually a portion of the Landsman Kill, is classified "B" which indicates that the waters should be usable for swimming. In addition, Crystal Lake must meet the standards for "B(T)" waters, which indicates that dissolved oxygen levels should be appropriate for trout waters. The Hudson River is classified "A" in this area because of its use as the water supply for several communities including Rhinebeck.

The DEC in recent years reviewed the classification of all Rhinebeck streams as part of a State-wide review. The Town had requested upgrading of the Landsman Kill from the Millpond to the source to "B(T)" so that it can be protected under provisions of the Stream Protection Act. In addition, the Town also requested upgrading of the Fallsburg Creek to "C(T)", the Rhinebeck Kill to "C(T)", and the Mudder Kill to "C" to improve water quality in these streams. To the extent these recommendations were not embraced by NYSDEC, the Town continues to request consideration of these upgrades in stream water quality classification.

POLICY 32 ENCOURAGE THE USE OF ALTERNATIVE OR INNOVATING SANITARY WASTE SYSTEMS IN SMALL COMMUNITIES WHERE THE COSTS OF CONVENTIONAL FACILITIES ARE UNREASONABLY

HIGH, GIVEN THE SIZE OF THE EXISTING TAX BASE OF THESE COMMUNITIES.

Explanation of Policy

Alternative systems include individual septic tank systems and other subsurface disposal systems, small systems serving clusters of households or commercial establishments, and/or pressure or vacuum sewers. These types of systems may be more cost effective in smaller, less populated areas, such as most of the unincorporated portions of the Town of Rhinebeck (i.e., areas outside the hamlet of Rhinecliff and the corridor between Rhinecliff and the Village of Rhinebeck) and in areas where the installation of conventional facilities are too expensive.

Plans for the use of alternative and/or innovative sanitary waste systems for developments in areas of the Town where construction of conventional facilities is not currently feasible or desirable will be encouraged and reviewed for suitability and effectiveness during site plan and/or subdivision review and in accordance with the Town Comprehensive Plan. The Town is investigating standards for such facilities and, if appropriate, may require municipal or other governmental, e.g. Dutchess County Water and Wastewater Agency, ownership and operation.

See Policy 33.

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 mitigating pollution caused by the discharge of stormwater runoff and sewer overflows. The hamlet of Rhinecliff has historically had a problem with failing septic systems caused by poor soil conditions and a moderately-dense pattern of development. The Town continues to explore the feasibility of extending the Village sewer system to the hamlet or providing alternative and affordable means for addressing this environmental issue. Installation of new combination sanitary/storm water sewer systems is not permitted. All newly installed facilities must be separate. The construction of on-site retention basins or other on-site retention facilities will be encouraged and/or required for new developments, as necessary, in order to maintain or reduce runoff to the Hudson or other water bodies. In addition, non-structural approaches, such as improved street cleaning and reduced use of road salt, will be encouraged to reduce pollution in runoff.

See Policies 31, 32, and 37.

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 (Navigation Law 33-C, provides for the disposal of sewage and litter in waterways). Significant fish and wildlife habitats, beaches, and public water supply intakes 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. The Hudson River along much of the shoreline of the Town serves as a significant habitat area for finfish, including shad and short-nosed sturgeon, and also serves as the source of drinking water for the Village of Rhinebeck, portions of the Town of Rhinebeck along Route 308 and River Road, and the hamlet of Port Ewen area of the Town of Esopus. The River areas need to continue to be protected by State regulations.

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. The Town shall refer all applicants for mining, dredging or excavation activities to the Army Corps of Engineers and NYSDEC for appropriate permits.

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 (Policies 7A, 24, 15, 26 and 44). If dredging activities become necessary, all applicable standards and policies will be followed.

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.

Explanation of Policy

See definition of hazardous wastes at Policy 8.

Applicants for the development of non-residential uses will be required to identify any hazardous materials associated with the proposed use and disclose information on use, storage, treatment and disposal.

As indicated in the Town's Zoning Law, "all activities involving handling, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire or explosion and with adequate firefighting and fire suppression equipment and devices standard in the industry". In addition, "all applicable requirements of the New York State Uniform Fire Prevention and Building Code, NYSDEC regulations, as well as the provisions of the National Fire Protective Association (NFPA) Code, shall be fully observed". These regulations collectively provide for the design, placement, and monitoring of tank installations.

Further, the Town of Rhinebeck through the existing Water Resources Protection Overlay (WRP-O) District has provided complementary local regulations in environmentally-sensitive stream corridors and aquifer protection areas. These regulations include the specific prohibition of certain uses, including gasoline stations, within the aquifer protection area and prescribe additional local requirements for handling of hazardous materials and the design and installation of both above-ground and underground storage tanks and sewage disposal systems there.

Pursuant to local requirements and NYSDEC Part 612 through 614 regulations, all in-ground tanks of 1,100 gallon or over capacity for the storage of petroleum must be constructed of non-corrosive materials.

See Policies 8, 30 and 39.

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 and public water supply areas need protection from contamination by non-point discharge of excess nutrients, organics and eroded soils. Actions to control stormwater surface runoff, minimize erosion and to encourage the use of alternative (organic) methods of fertilization and pest control will greatly minimize discharge. By promoting such activities and providing information on organic methods, surface drainage control and erosion

control, and by carrying out thorough site plan and subdivision review processes, natural habitats and resources, recreational areas and water quality of the Town will be maintained and/or protected. Environmental Quality Review practices and application of Land Subdivision and Site Plan Review regulations will be used to ensure that best management practices are employed to mitigate construction impacts.

See Policies 14, 33, 38 and 44.

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

Explanation of Policy

Both surface and groundwater are the sources of drinking water in the Town and therefore must be protected. The Hudson River is already the source of water for the Rhinebeck Water District, which includes the Village of Rhinebeck, the hamlet of Rhinecliff and some limited portions of the Town. A high level of water treatment and sewage treatment will be maintained. The River should be protected as a water supply to meet unknown future demands.

Large scale Hudson River water withdrawal projects such as once proposed by the Corps of Engineers for New York City (the flood-skimming project) and Exxon's "water-lifting" practices, could, however, seriously threaten the freshwater supply. These types of water-withdrawal could adversely affect the water supply by resulting in northward movement of the salt front and would demand close scrutiny.

The remainder of the Town relies on individual wells. These wells must be protected from over-pumping and contamination, particularly from septic systems, agricultural chemicals and industrial uses. In addition, where there are no sewers, zoning will be used to establish appropriate densities (at least one acre per residence, but in the bulk of the waterfront area five acres will be required for each residence) and coverage to assure protection of groundwater.

The streams within the waterfront area are important fishing locations and drain into the Hudson River. Stream corridors need to continue to be protected through use of the Land Conservation (LC) District and Water Resource Protection Overlay (WRP-O) District designations and related regulations set forth under the Town's Zoning Law or through other protection mechanisms, including conservation easements, restricting development along streambeds. In addition, the Town CAC has undertaken a pilot a water quality testing program on the Landsman Kill and Rhinebeck Kill to monitor water quality with it desirable that this program both be expanded and made either a continuing or periodic effort.

Site plan review procedures and approval, and permit approvals for new or expanded industrial, energy, transportation, or commercial facilities will require appropriate environmental approvals to examine possible impacts on water quality.

See Policies 7A, 8 and 37.

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

See Policy 8 for definition and regulation of hazardous wastes.

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 and agricultural wastes, as well as unused biocides, paints, lubricants, fuels, etc., which may become more solid than liquid.

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. Transportation of solid wastes, particularly hazardous wastes, must be carried out so that no negative environmental impacts result.

An important effort undertaken by the Town since the initial preparation of the LWRP has been the closure of the former Town landfill on Stone Church Road (located outside the coastal area). The associated development of a local transfer station and resource recovery facility as a substitute for the landfill has contributed to protection of groundwater supplies and surface waters.

Through local site plan review procedures, including through application of the earlier-cited requirements of the Town's Water Resources Protection Overlay (WRP-O) District, applicants for proposed commercial or light industrial uses shall be required to identify hazardous wastes and other solid wastes as described above. Information as to the transport, storage, treatment and disposal of such wastes must be disclosed. Only those actions that assure consistency with the LWRP policies and contain environmentally appropriate handling of wastes will be approved.

See Policies 8 and 36.

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

A number of factors must be considered when reviewing a proposed site for facility construction. One of these factors is the facility discharge no 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 State agencies or, if applicable, a siting board when evaluating any applicant's request to construct a new steam electric generating facility.

POLICY 41 COASTAL MANAGEMENT POLICIES WILL BE CONSIDERED IF THE STATE RECLASSIFIES LAND AREAS PURSUANT TO THE PREVENTION OF SIGNIFICANT DETERIORATION REGULATIONS OF THE FEDERAL CLEAR AIR ACT.

Explanation of Policy

Proposed or existing land use in the waterfront of the Town or adjacent areas shall not cause the generation of significant amounts of nitrates or sulfates. The Town will utilize environmental quality review procedures to examine applications for proposed commercial, light industrial and institutional uses and ensure that appropriate air quality permits have been granted before any project approvals are given to assist in the State's efforts to control acid rain. These efforts will enhance the continued viability of coastal fish and wildlife habitat areas, agricultural areas, historic and scenic resources, and water resources.

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 State air quality classification for the waterfront area of the Town is Level II, which is used for areas of "predominantly single and two-family residences, small farms, and limited commercial services and industrial development." The coastal policies of Rhinebeck's LWRP will be considered if the State proposes reclassification of Rhinebeck land areas so that standards shall be equal to or more restrictive than current standards.

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

Explanation of Policy

Proposed or existing land use in the waterfront area of the Town or adjacent areas shall not cause the generation of significant amounts of nitrates or sulfates. The Town will utilize environmental quality review procedures to examine applications for proposed commercial and industrial uses and ensure that appropriate air quality permits have been granted before any project approvals are given to assist in the State's efforts to control acid rain. These efforts will enhance the continued viability of coastal fish and wildlife habitat areas, agricultural areas, historic and scenic resources, and water resources.

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

Explanation of Policy

No salt water or marine tidal wetlands are found within the Local Waterfront Revitalization Area or elsewhere within the Town of Rhinebeck.

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. Some of the wetlands along the Hudson River shore are subject to tidal action and may be called freshwater-tidal wetlands.

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

1. habitat for wildlife and fish, including a substantial portion of the State's commercial fin and shellfish varieties, and contribution to associated aquatic food chains;
2. erosion, flood and storm control;
3. natural pollution treatment;
4. groundwater protection;
5. recreational opportunities;
6. educational and scientific opportunities; and
7. aesthetic open space.

Freshwater wetlands affected by tides are among the Town's most significant scenic and biological resources. These wetlands, found in the natural and railroad-created coves of the Town, support a variety of vegetation types and wildlife habitats. Cove areas from north to south within the Town are: Mandara South Cove, Matambeson Cove, Clifton Point Cove, Astor Cove, Slate Dock Cove North, Slate Dove Middle, Long Cove, Cattail Cove, Stream Cove, Suckley Cove and Vanderburgh Cove. Of the several natural coves in the Town, Vanderburgh, Suckley, and Astor Coves are considered the most ecologically significant.

Vanderburgh Cove, together with Suckley Cove and adjacent shallows areas, has been designated a Significant Coastal Fish and Wildlife Habitat by the NYS Department of State and a Significant Natural Area by the Dutchess County Environmental Management Council (EMC). It is important to spawning and feeding fish, migrating ducks and as an osprey feeding area. It is used by resting marsh wrens and by herons and egrets in late summer. See Map 4, "Natural Resources Inventory", and Policy 7A

Astor Cove, also named a Significant Natural Area by the EMC, supports extensive fish and birdlife. It is unique because of its stand of wild rice and as a valuable feeding area for ducks. See Map 4, "Natural Resources Inventory", and Policy 7B.

Those areas surrounded by wetland vegetation, and in some cases wooded areas, are valuable from ecological and scenic points of view. Snyder Swamp, a hardwood swamp with permanent standing water in parts, must be preserved. This area of approximately 110 acres adjacent to Ferncliff Forest is regulated under the New York State Wetlands Act because of its extensive area. Activities such as draining, filling, dredging and other possible alteration are not permitted in this wetland area which is currently in private ownership and zoned for residential use. The Dutchess County Environmental Management Council (EMC) further designated Snyder Swamp, together with Ferncliff Forest and the Mudder Kill, as Significant Natural Areas.

In addition to the above identified freshwater wetland areas, the New York State Department of Environmental Conservation has designated eleven freshwater wetland areas within the Town's Coastal Area. These wetland areas are as follows and shall be protected according to the provisions of this policy (See Map 4, the NYS Freshwater Wetlands Map in Appendix E, and Policies 7D and 7E.):

KE-4 - - Class II
KE-5 - - Class II
KE-6 - - Class III
KE-7 - - Class III
KE-8 - - Class III
KE-9 - - Class III
KE-24 - - Class II
KE-26 - - Class II
KE-27 - - Class II
KE-29 - - Class II
HP-31 - - Class I

To protect wetlands it will be necessary to:

1. Avoid negative affects of various development factors including pollution of streams, e.g., by runoff from railroad and highway maintenance practices and agricultural areas.
2. Work with the railroad to ensure that the railroad either stops (or does not resume) particularly negative railroad maintenance practices including:
 - a. the spraying of the railroad bed and surrounding area with herbicides to limit the growth of vegetation near the tracks which may kill plant life in the cove wetland areas and threaten wildlife habitats;
 - b. scattering of old railroad ties permeated with creosote or other wood preservatives that can both add chemicals to the coves and can block water passing through areas under railroad bridges interfering with tidal flow; and
 - c. pushing vegetation into the coves which can increase the herbicide and nitrogen levels of the coves.
3. Continue the use of the Land Conservation (LC) and Water Resource Protection Overlay (WRP-O) District requirements which includes setback of development from Town streams and wetlands areas including the Hudson River shoreline, bluff and wetland areas, stream corridors, Snyder Swamp and the Millpond.
4. Utilize site plan and subdivision reviews and large lot, low density zoning to require adequate setback from the Hudson River shores.
5. Utilize strict enforcement of applicable wetland regulations, both State regulations as promulgated and administered by NYSDEC and Federal regulations as promulgated and administered by the U.S. Army Corps of Engineers.

See Policies 1, 2, 7, 7B and 7C.