

Village of Nyack
Local Waterfront Revitalization Program

Section III Local Waterfront Revitalization Policies

DRAFT

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

This policy applies primarily to the southern portions of the Village of Nyack waterfront, south of Second Avenue-Ackerman Place and is complimented by Policy 2, which explains the conditions under which priority will be given to water-dependent uses.

The southern portion of the Village's waterfront includes diverse land uses, ~~as well as several and very few~~ vacant or underutilized sites. This area is the traditional center of waterfront commercial and recreational activity. ~~Since development of multifamily residential buildings on the water's edge, this area has transitioned from its historical use as a working waterfront to a recreational and residential area. In recent years intensive residential development has begun to locate along the water's edge as well.~~ The intent of this policy is to encourage revitalization while maintaining a balance between the various uses which compete for limited space near the water.

The two vacant sites on the southern portion of the waterfront are the Gedney-Main Street Site and the New York State-owned wetland parcel south of Memorial Park. The Gedney-Main Street Site is a brownfield site that is currently undergoing environmental remediation, a process which is consistent with the objectives of this policy because remediation will allow for the possibility of future redevelopment. This site is also currently the subject of a development application. Future redevelopment on this site must comply with the Village's established View Corridor Protections and WF District zoning regulations, including provision of a public waterfront walkway (pursuant to a special permit). The New York State-owned wetland parcel is currently inaccessible from the public right-of-way. However, there may be the potential for wetland restoration and limited-impact passive recreation on the site (such as an elevated boardwalk).

The following criteria will be used to determine the appropriateness of proposed uses and activities:

1. Priority should be given to uses which are ~~totally or in part~~ dependent on a location adjacent to the water and/or uses which are enhanced by a location adjacent to the water that also provide some water-dependent benefit (e.g., such as a waterfront walkway, kayak launch, fishing pier, etc.); (see Policy 2)
2. The action should enhance existing and anticipated uses. For example, strategies that provide visual or physical connections between different waterfront assets and from other parts of the Village to the waterfront are favored;
3. The action should be compatible with or 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 contribute to further deterioration;
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 by providing services or resources for which there is a need;
7. The action should not impair upland views of the water or detract from the views as seen from the water (see Policy 25); and
8. The action should improve the potential for multiple uses of the site and the general area (see Policy 22).

Policy 1A

~~The Village owned sewage treatment plant site shall be developed for a combination of water related uses providing maximum opportunities for recreational use of and public access to waterfront resources.~~

~~The site of the Village's former sewage treatment plant—on the river's edge between Memorial Park and the marina—is vacant and virtually without legal access. With proper access, it is appropriate for a variety of public and or private water related uses. It is the intent of this policy that development of this site give priority to water dependent commercial uses (marinas, boat sales, sale of marine products) and facilities for passive public use and access (fishing walking, viewing). Such development may be achieved by leasing out part or all of the site under contractual agreement.~~

Policy 2

~~Facilitate the siting of water dependent uses and facilities on or adjacent to coastal waters.~~ **Policy 2**
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Policy 2A

Preserve and retain existing water dependent uses in the coastal area

Explanation of Policy

There are few available sites along the Nyack waterfront that have suitable access, topography, services and water depth to accommodate siting of future water-dependent uses and facilities.

Furthermore, market pressures for residential development with views of and access to the waterfront may lead to replacement of existing water-dependent uses by more intensive development. The intent of this policy is to ensure that water-dependent uses be given preference and, where possible, assistance in securing waterfront sites and that every effort be made to retain such existing uses. Those uses which are considered water-dependent and subject to these policies include the following:

1. Memorial Park Fishing Pier;
2. Nyack Marina;
3. Clermont Docks;
4. Clermont Pier;
5. Nyack Boat Club;
6. Hook Mountain Yacht Club;

The following additional types of uses are also considered as water-dependent. Where such facilities are already located on the Nyack waterfront, their continued operation shall be accommodated:

1. Certain uses which utilize the resources of the coastal waters, such as fishing, both commercial and recreational (see Policy 10);
2. Recreational activities which depend on access to coastal waters (for example: swimming, fishing, boating, wildlife viewing, scenic and nature walks);
3. Aids to navigation;
4. Flood and erosion protection structures (for example: breakwaters, bulkheads);
5. Facilities needed to store and service boats (for example: marinas, boat repair and construction yards, boat sales and service facilities, etc.);
6. Scientific/educational activities which, by their nature require access to coastal waters (for example: certain meteorological, ecological and oceanographic activities); and
7. Support facilities which are necessary for the successful function of permitted water dependent uses.

In addition, uses which are enhanced by, though not dependent on, a waterfront location are permitted by ~~special permit~~ to locate along the shoreline if public access is provided and all other waterfront development guidelines contained in the ~~C3-WF Waterfront Development~~ District of the Zoning Law are complied with. A water-enhanced use is a use that has no critical dependence on obtaining a waterfront location, but 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.

Development of water-dependent uses should satisfy certain criteria, based on the type of use being considered. The following guidelines should be considered when reviewing plans for such sites:

1. Competition for space: Competition for space, or the potential for it, should be indicated before any given site is promoted for water-dependent uses. The intent is to match water-dependent uses with suitable locations and thereby reduce any conflicts between competing uses that might arise. Not just any site suitable for development should be chosen as a water-dependent use area. The choice of a site should be made with some meaningful impact on the real estate market anticipated. The anticipated impact could either be one of increased protection to existing water-dependent activities or else the encouragement of water-dependent development.~~Special Suitability: Sites which are particularly suited to a particular type of use should be used for such purposes if possible. For instance, few sites have the appropriate land and water characteristics for marinas or boat launches.~~
2. In-place Facilities and Services: Most water-dependent uses, if they are to function effectively, require certain basic public facilities and services. In determining the adequacy of development plans for water-dependent uses, consideration should be given to the following factors (see also Policy 1):
 - a. The capacity of public sewers, public water lines and power supply;
 - b. The adequacy of vehicular access and any special access needs such as for boat trailers for marinas or boat launches; and
 - c. Access to public transportation, if a high number of person trips is to be generated.

3. Access to Navigational Channels: ~~Commercial shipping, fishing, and r~~Recreational boating sites should establish docking from which access to the navigation channel is assured.
4. Compatibility with Adjacent Uses and the Protection of Other Coastal Resources: Water-dependent uses should be located so that they enhance, or at least do not detract from, the surrounding community. Consideration should also be given to such factors as the protection of nearby residential areas from odors, noise and traffic. Water dependent uses must also be sited so as to avoid adverse impacts on scenic areas and views. Such determinations, however, must be balanced against the possible alternatives, if any, for such uses to locate and their benefit to the entire community.
5. Underutilized Sites and Expansion of Existing Uses: Sites which are underutilized and/or which will permit expansion of existing water-dependent uses or promote new water-enhanced uses should be designed to accommodate such uses, if at all possible.

Much of the character and interest of the Nyack waterfront is contributed by those traditional maritime uses which still remain. The Hudson River itself is the dramatic catalyst for recent renewed interest in waterfront development. However, the presence of public and private docking space, a public boat launch, ~~boat repair facilities,~~ waterfront restaurants, fishing pier, and both active and passive waterfront recreation and one of the few remaining commercial fishing piers make Nyack unique. The economic base of the entire community will benefit if these traditional uses are preserved and enhanced and the Village maintains its role as a center for ~~commercial~~ waterfront recreation and entertainment, in addition to being a residential center.

In order to promote activities such as recreation and ~~commercial~~ fishing, marinas, tour and/or ferry boats, and preservation of historic structures, ~~etc.~~, the following guidelines will be followed when considering development proposals for the waterfront:

1. Priority shall be given to water-dependent or water-enhanced uses which are compatible with the existing pattern of uses and will enhance rather than detract from existing uses.
2. An action shall not be out of keeping with existing development in terms of scale, intensity of use, architectural character, or potential as a source of noise, traffic jams, or other nuisance.
3. Actions shall not detract from views of the water or from views of the shore as seen from the water.
4. Priority shall be given to actions which enhance the economic base by furthering uses and enjoyment of recreational facilities. Such actions include:
 - a. Zoning to facilitate continued use of and necessary expansion of ~~commercial~~ recreational facilities.
 - b. Dredging to permit continued use and enjoyment of the river for boating.
 - c. Elimination of pollution sources which detract from the waterfront environment.
 - d. Removal of obstacles to navigation such as abandoned vessels.

Policy 3

Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those

under the jurisdiction of State public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people.

Explanation of Policy

Policy 3 is not applicable. The Village of Nyack does not contain any of the State's existing major ports.

Policy 4

Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.

Explanation of Policy

This policy recognizes that the traditional activities occurring in and around numerous smaller harbors, throughout the State's coastal area, contribute much to the economic strength and attractiveness of these harbor communities. Thus, efforts of state agencies shall center on promoting such desirable activities as recreational fishing, ferry services, marinas, historic preservation, cultural pursuits, and other compatible activities which have made smaller harbor areas appealing as tourist destinations and as commercial and residential areas. Particular consideration will be given to the visual appeal and social benefits of smaller harbors which, in turn, can make significant contributions to the State's tourism industry.

The following guidelines shall be used in determining consistency:

1. The action shall give priority to those traditional and/or desired uses which are dependent on or enhanced by a location adjacent to the water.
2. The action will enhance or not detract from or adversely affect existing traditional and/or desired anticipated uses.
3. The action shall not be out of character with, nor lead to development which would be out of the character with, existing development in terms of the area's scale, intensity of use, and architectural style.
4. The action must not cause a site to deteriorate, e.g., a structure shall not be abandoned without protecting it against vandalism and/or structural decline.
5. The action will not adversely affect the existing economic base of the community e.g., waterfront development designed to promote residential development might be inappropriate in a harbor area where the economy is dependent upon tourism and commercial fishing.
6. The action will not detract from views of the water and smaller harbor area, particularly where the visual quality of the area is an important component of the area's appeal and identity.
- 1-7. In applying the above guidelines the information in harbor management plans being developed by local governments pursuant to Article 42 of the Executive Law and local laws that would implement them shall be considered.

Policy 5

Encourage the location of development in areas where public services and facilities essential to such development are adequate.

The purpose of this policy is to direct new development, particularly large-scale development, in the coastal area to locations within, contiguous to, or in close proximity to, existing areas of concentrated development where infrastructure and public services are adequate and where topography, geology, and other environmental conditions are suitable for and able to accommodate development.

Specifically, the policy is intended to:

- Strengthen existing residential, industrial and commercial centers;
- Foster an orderly pattern of growth where outward expansion is occurring;
- Increase the productivity of existing public services and moderate the need to provide new public services in outlying areas;
- Preserve open space;
- ~~Where desirable, foster energy conservation by encouraging proximity between home, work and leisure activities.~~
- ~~Development projects which are essential to the construction and/or operation of the above uses and activities.~~

The Village of Nyack is an area of concentrated development where infrastructure and public services are generally adequate to support future land uses and development, as specified in ~~the proposed uses and proposed projects for the waterfront area (See Section IV - I)~~Section IV: Proposed Land and Water Uses and Proposed Projects.

For any action that would result in large-scale development or an action which would facilitate or serve future development, a 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 shall be used in making that determination:

1. A location in the coastal area may be suitable for development, if three or more of the following conditions prevail:
 - a. Population density of the area surrounding or adjacent to the proposed site exceeds 1,000 persons per square mile;
 - b. Fewer than 50% of the buildable sites within one mile radius of the proposed site are vacant (i.e., sites meeting lot area requirements under existing local zoning regulations);
 - c. Proposed site is served by or is near to public or private sewer and water lines;
 - d. Public transportation service is available within one mile of the proposed site; and
 - e. A significant concentration of commercial and/or industrial activity is within one-half mile of the proposed site.
2. The following shall be considered in assessing the adequacy of an area's infrastructure and public services:
 - a. Streets and highways serving the proposed site can safely accommodate the peak traffic generated by the proposed land development;

- b. Development's water needs (consumptive and firefighting) can be met by the existing water supply system;
- c. Sewage disposal system can accommodate the wastes generated by the development;
- d. Energy needs of the proposed land development can be accommodated by existing utility systems;
- e. Stormwater runoff from the proposed site can be accommodated by on-site and/or off-site facilities; and
- f. 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.

The provisions of this policy are implemented primarily through the land use and development regulations of the Village of Nyack and the consistency requirements governing the actions of local, State, and Federal agencies. In areas where a significant need for infrastructure improvements has been identified, implementation of the policy may also involve establishing a schedule of capital improvements and devising strategies for carrying out major facility improvement projects.

Policy 6

Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.

When administering existing regulations and prior to proposing new regulations, every effort should be made to determine the feasibility of coordinating administrative procedures and incorporating new regulations in existing legislation, if this can reduce the burden on a particular type of development without jeopardizing the integrity of the regulation's objectives.

Fish and Wildlife Policies

Policy 7

Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats.

The State Coastal Policy is not applicable as no Significant Coastal Fish and Wildlife Habitats have been designated within the Village. A local policy is, however, identified below.

Policy 7A

Protect the physical characteristics of the Hudson River along Nyack that support the varied fish populations found there.

Although no significant habitats have been designated on the coastal area map in the Nyack coastal area, this portion of the Hudson River is still an important fishing area. Among the fish that swarm off this part of Rockland County and the lower Hudson are sea sturgeon, stripers, yellow perch, white perch, shad, herring, largemouth bass, carp, tomcod, sunfish, needlefish, golden shiners and darkers, to name a few. Shellfish and crustaceans such as blue claw crab can also be found off Nyack's waterfront.

In addition, anadromous species pass the area during spawning migration and as pelagic larvae and/or weak swimming juveniles. Of particular concern are American shad and striped bass.

Like many Hudson River communities, the Village of Nyack historically supported a thriving commercial fishing industry that was decimated by substantial pollution of the river. Both commercial and recreational fishing on the Hudson River are heavily regulated by NYS DEC to prevent consumption of harmful pollutants. However, the Village is supportive of any attempt to promote the culture of fishing that is reflective of Nyack's history. To this end, recreational fishing sites should be protected and, where possible, expanded to strengthen this connection to Nyack's history.

The Village is also supportive of ongoing efforts by State and Federal agencies such as NYS DEC and the US EPA and non-profit organizations such as Riverkeeper to continue decades-long progress in reducing pollutants in the Hudson River.

Policy 8

Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.

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 [§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 illness, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed." A list of hazardous wastes (NYCRR Part 366) will be has been adopted by DEC within 6 months after EPA formally adopts its list. (6NYCRR Part 371).

The handling (storage, transport, treatment and disposal) of the materials included on this list is being strictly regulated in New York State to prevent their entry or introduction into the environment, particularly into the State's air, land and waters. Such controls 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 are those conventional wastes generated from point and non-point sources, and not identified as hazardous wastes, but controlled through other State laws.

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.

Recreational uses of coastal fish and wildlife resources include consumptive uses such as fishing and hunting, and non-consumptive uses such as wild-life photography, bird watching and nature study.

The urbanized nature of the Nyack coastal area is such that there are few natural wildlife features. However, the river itself is an abundant resource for recreational fishing. Direct actions to improve on-shore fishing facilities, such as piers, ~~and~~ to improve boat access by removing obstacles to navigation,

such as abandoned barges, and to support nature study through wetland restoration, will support this policy.

Policy 10

Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the State's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.

Historically, Nyack has been a site that supported a small commercial fishing industry. Formerly, the "Burd Street Dock" in provided unloading and transfer facilities for the spring shad catch, but it is no longer in operation. Commercial fishing is permitted by the NYS DEC in the Hudson River above the Tappan Zee Bridge with a permit,¹ however facilities are limited in the lower Hudson. Many recreational and commercial fisheries were closed by New York State on the Hudson River for many years due to pollutants such as Polychlorinated biphenyls (PCBs). Following extensive cleanup of the Hudson River Superfund Site, under monitoring by the United States Environmental Protection Agency (US EPA), the Hudson River remains closed to recreational and commercial fishing of striped bass, american shad, and atlantic sturgeon. River herring and blue crab can be fished, which regulations by NYS DEC.²

Commercial fishery development activities must occur within the context of sound fishery management principals developed and enforced within the State's waters by the New York State Department of Environmental Conservation and the management plans developed by the Regional Fisheries Management Councils (Mid-Atlantic and New England) and enforced by the U.S. National Marine Fisheries Service within the Fishery Conservation Zone. (The Fishery Conservation Zone is the area of coastal waters extending from the three-mile State waters boundary to the 200 mile offshore boundary of the U.S. waters. The Conservation Zone is authorized by the U.S. Fishery Conservation and Management Act of 1976.) Sound resource management considerations include optimum sustained yield levels developed for specific commercial fish species, harvest restrictions imposed by State and Federal governments, and the economic, political (uses conflicts), and technological constraints to utilizing these resources.

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

1. A public agency's commercial fishing development initiative should not preempt or displace private sector initiative.
2. A public agency's efforts to expand existing or create new on-shore commercial fishing support facilities should be directed towards unmet development needs rather than merely displacing existing commercial fishing activities from a nearby port. This may be accomplished by taking into consideration existing State or regional commercial fishing development plans.

¹ <http://www.dec.ny.gov/lands/6945.html>

² <http://www.dec.ny.gov/animals/6945.html>

3. Consideration should be made by State and Federal agencies whether an action will impede existing utilization or future development of the state's commercial fishing resources.
- 1-4. Commercial fishing development efforts should be made in a manner which ensures the maintenance and protection of the renewable fishery resources.

~~Commercial fishing facilities are limited in the lower Hudson. One of the few is "Burd Street Dock" in Nyack, which provides unloading and transfer facilities for the spring shad catch taken in the broad Tappan Zee. The facility operates in an informal manner on Village-owned land with the cooperation of the adjacent marina.~~

~~Such facilities are an important part of the traditional maritime economy of the Hudson River but, particularly in the lower reaches of the Valley, have been increasingly depleted by a combination of declining resources (as various species are prohibited from commercial catches due to contamination) and competition for sites by residential uses. While no realistic opportunities for new or expanded commercial fishing facilities exist, it is an important policy of this program that the present facilities are preserved.~~

~~To be consistent with and to implement this policy, any future use of the Village-owned sewage treatment plant site shall encourage facilities for unloading and transfer of fish from commercial catches. Since such use is seasonal in nature, joint use or use for other purposes out of season is appropriate to ensure maximum opportunity for waterfront activities.~~

Flooding and Erosion Hazards Policies

Policy 11

Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.

The Nyack waterfront lies within the 100 year flood plain. In addition, the 500 year flood boundary significantly increases the potential flood area, extending to lands adjacent to the mouth of Nyack Brook and to an area of the Village south and west of Depew and South Highland Avenues. Development in these areas must either be built above the base flood elevations or contain flood protection devices to that height.

Where human lives may be endangered by major coastal storms, all necessary emergency preparedness measures should be taken, including disaster preparedness planning. Within the 100-year floodplain boundary are located portions of the sites of the Gedney Street multi-story apartment buildings, the Clermont project, and several public and private commercial and recreational properties. Rockland County is responsible for preparing disaster preparedness plans. In coastal lands identified as being subject to high velocity waters caused by hurricane or other storm wave wash, fuel storage tanks shall be sited landward of mean high tide.

According to the Scenic Hudson Sea Level Rise Mapper, there are targeted areas of concern due to sea level rise and increased flood risk.³ The Central Range of expected sea level rise is 30" by the year 2100. Under this scenario, none of the single-family residential homes on the northern waterfront are impacted. On the southern waterfront, small areas of inundation could occur in the parking areas of the Rivercrest and West Shore multi-family buildings. A limited area of the Gedney Street-Main Street vacant site would be impacted by inundation—any future development of this site should take future inundation risk into account when designing a public waterfront walkway. The Clermont Apartments may face significant risk due to this level of sea level rise. Portions of the Nyack Marina parking area may be subject to inundation, an issue which the Village should monitor in the coming years. The existing waterfront parking area of Memorial Park may also be subject to inundation—future plans for redesign of Memorial Park should take this inundation risk into account to avoid any lost waterfront recreation assets due to sea level rise.

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.

There are no beaches, dunes, barrier islands, bluffs, or other natural protective features on the Nyack waterfront. However, excavation of coastal features, improperly designed structures, inadequate site planning, or other similar actions which fail to recognize the shoreline's fragile nature and high protective values, lead to the weakening or destruction of those landforms. Activities or development in, or in proximity to, natural protective features must ensure that all such adverse actions are minimized.

Policy 13

The construction or reconstruction of erosion protection structures shall be undertaken only if they have reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.

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

Most of the Nyack waterfront is already developed and is protected by bulkheading. Maintenance of these erosion protection structures should be allowed to protect the existing uses. Further, some areas of the waterfront that are particularly vulnerable to flooding and sea level rise may need to be explored for reinforcement of bulkheads or construction of more protective seawalls.

³ <http://scenichudson.org/slr/mapper>

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.

Erosion and flooding are processes which occur naturally. However, ~~by his actions, man~~ artificial actions 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, or the use of impermeable docks which block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; the failure to observe proper drainage or land restoration practices, thereby causing runoff and the erosion and weakening of shorelands; and placing of structures in identified floodways so that the base flood level is increased causing damage to otherwise hazard-free areas.

Policy 15

Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.

Nyack Brook is a tributary of the Hudson River. It begins near Exit 11 of the New York State Thruway and parallels Main Street before turning south at Franklin Street and emptying into the Hudson at the south side of Memorial Park. The brook is either channelized or flows through underground culverts. Periods of heavy local rainfall result in excessive sedimentation at its mouth which also affects neighboring boat docking facilities. The presence of salt in the Hudson and the broad expanse of the Tappan Zee also results in active silt deposition in the Hudson and along the shoreline.

Coastal processes, including the movement of beach materials or shoreline sediment by water, and any mining, excavation or dredging in nearshore or offshore waters which changes the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. Such mining, excavation and dredging should be accomplished in a manner so as not to cause a reduction of supply, and thus an increase of erosion, to such shorelands. Offshore 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.

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.

Public funds are used for a variety of purposes on the State's shorelines. This policy recognizes the public need for the protection of human life and existing investment in development or new development which requires a location in proximity to the coastal area or in adjacent waters to be able to function. However, it also recognizes the adverse impacts of such activities and development on the rate of

erosion and on natural protective features and requires that careful analysis be made of such benefits and long-term costs prior to expending public funds.

Policy 17

Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.

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.

This policy shall apply to the planning, siting and design of proposed activities and development, including measures to protect existing activities and development. To ascertain consistency with the policy, it must be determined if anyone, or a combination of, non-structural measures would afford the degree of protection appropriate both to the character and purpose of the activity or development, and to the hazard. 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 afford the degree of protection appropriate, 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.

Application of the Flood Damage Prevention Regulations, Best Management Practices and review of alternatives in accord with SEQR procedures will be effective in many instances as preventive measures. It must be recognized, however, that in certain instances where damage has already occurred and must be corrected or where non-structural measures are not feasible, structural solutions will be required.

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.

Proposed major actions may ~~not~~ be undertaken in the coastal area if they will not significantly impair valuable coastal waters and resources, thus frustrating the achievement of the purposes of the safeguards which the State has established to protect those waters and resources. Proposed actions must take into account the social, economic and environmental interests of the State and ~~its~~ their citizens in such matters that would affect natural resources, water levels and flows, shoreline damage and recreation. Review under the SEQR process will allow a weighing of the cost and benefits of such actions.

Public Access Policies

Policy 19

Protect, maintain, and increase the level and types of access to public water-related recreation resources and facilities.

In general, implementation of this policy requires careful balancing of several factors: the demand for specific recreation facilities; the adequacy and type of access to facilities; the capacity of the resource; ~~and, the protection of natural and historic resources; limited availability of waterfront land area for new public access points; and the Village's capacity for capital improvements and ongoing maintenance of new public facilities. Because of the greater competition for waterfront locations within urban areas, the Coastal Management Program will encourage mixed use areas and multiple use of facilities to improve access.~~

The Village has ~~one-two~~ substantial public water-related recreation facilities, both of which encourage mixed uses on the waterfront: —Memorial Park and the Nyack Marina. —Memorial Park which provides opportunities for fishing, boating, and passive waterfront activities, and active park activities. This facility is of sufficient size and appropriate location to accommodate most demands for active water-related recreation generated within the Village that can be met by a public facility. Access to this park is available by public streets from three directions, however Memorial Park is currently not directly connected to the Nyack Marina. A pedestrian walkways should be created which would to link Memorial Park to the Nyack Marina, which would also improve access to with the Village center and the adjacent waterfront lands. Existing access to Memorial Park shall not be impaired by:

1. Reduction in the service level of public transportation, unless related to systemwide objectives;
2. Imposing barriers such as utility right-of-way or arterial highways; or
3. Sale or lease of land which would impede existing access.

The Nyack Marina provides a public docks available for monthly rental, a public boat launch, parking that serves waterfront recreational uses and restaurants, and a private restaurant vendor which is scheduled to open in September 2017. The Village has also explored options to expand public access to the waterfront by providing ferry access from the municipal marina. This ferry could take the form of either a seasonal/recreational ferry and/or a commuter ferry connecting to the Metro-North station in Tarrytown.

A potential opportunity for expanding public waterfront access is available on the Gedney Street-Main Street vacant parcel. This site is in the WF zoning district, which includes a special permit provision that allows for development incentives in exchange for certain public benefits. Among those benefits its construction of a public waterfront walkway, which is required to include at least one water-dependent use, such as a kayak launch.

Should other public sites become available for water-related recreation, access must be analyzed according to the following factors:

1. The level of access to be provided is in accord with estimated public use;

2. The level of access to be provided does not cause a degree of use which would exceed the physical capability of the resource or the facility; and
3. The level of use and nature of the access does not adversely affect adjacent land uses or the natural environment or unduly tax the facilities or services of the Village.

~~Such considerations will be important to the future use of the Village-owned former sewer plant site—the only other publicly-owned waterfront property in the Village—which is now virtually landlocked (see Policy 1A). In addition, the program for public and private use of this site will require that public access be maintained and recreation facilities be provided.~~

In addition to the potential to provide access points to the waterfront from the shore, the potential to maximize Nyack's waterfront for recreational activities such as boating and swimming also requires that the remains of the Village's industrial past be addressed. The remains of barges and industrial piers create acute hazards to navigation for small boats, paddleboards, and kayaks. The Village, in coordination with the State, should seek outside funding to remove navigational hazards that create a hazard to safety and welfare and limit the ability to revitalize and restore the waterfront in its entirety and develop new water dependent uses.

With respect to this policy, the State will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.

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 shall be provided in a manner compatible with adjoining uses.

In addition to active recreation facilities, the publicly-owned foreshore of the coast can provide, where appropriate, for numerous activities and pursuits which require only minimal facilities for their enjoyment. Access to such land could provide for walking along the waterfront or to a vantage point from which to view the water or to photograph nature.

The shoreline at Nyack is either quite steep and narrow, at the north end of the Village, or has been filled and developed under water grants from the State, south of Tallman Place. Therefore, access to and use of the foreshore is largely dependent on use of adjacent public land (see Policy 19) or the acquisition through purchase, lease, donation or easement of access through private property. Such access is appropriate as part of mixed or multi-use development (See Policy 22) and is required as defined in Local Law No. 17 of 1991.

~~Long-term lease of public land, such as the former sewage treatment plant site, is only appropriate if public access is guaranteed. The procedures for lease will specify the size, design and purpose of such access and establish the responsibility of the lessee to maintain access.~~

Public use of 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. It should be noted that, north of Tallman Place, virtually all of the publicly owned foreshore is outside of the Village, the boundary of which is the water's edge.

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.

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

Provided the development of water-related recreation is consistent with the preservation and enhancement of such important coastal resources as fish and wildlife habitats, aesthetically significant areas, and historic and cultural resources, and provided demand exists, water-related recreation development is to be increased and such uses shall have a higher priority than any non-coastal dependent uses, including non-water-related recreation uses. In addition, water-dependent recreation uses shall have a higher priority over water-enhanced recreation uses. Determining a priority among coastal dependent uses will require a case-by-case analysis. This policy shall apply to both public and private uses.

Existing facilities at Memorial Park will be retained and enhanced per the Memorial Park Master Plan as funds become available. Recent investment (with grant funding from FEMA) to repair storm-damaged facilities at the Nyack Marina is supportive of this policy. Creation of A major improvement will be the removal of abandoned barges, which present a safety hazard, creating a waterfront trails and walkways with connections to downtown is long proposed idea that would be an additional improvement. Recreational ferry service is another proposal that would increase access to the Nyack waterfront, bringing visitors to the Village from New York City and other Hudson River communities, and improved docking and mooring facilities.

This policy strongly encourages the retention or replacement of existing private marinas, boat clubs and marine service facilities. These commercial and public recreation uses provide access to the water for many people and contribute to the diverse character of the Nyack waterfront (see Policy 2). The preservation of existing facilities or the incorporation of similar water-dependent and water-enhanced recreation facilities in new development will be considered in the review of development proposals.

Policy 22

Development, when located adjacent to the shore, will provide for water-related recreation, whenever such use is compatible with reasonably anticipated demand for such activities, and is compatible with the primary purpose of the development.

Certain waterfront developments present practical 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.

Uses which are appropriate in the Nyack coastal area and which can provide opportunities for water-related recreation as a multiple use include: parks, sewage and water treatment facilities, and mixed-use ~~projects~~developments.

Whenever a proposed development is compatible with waterfront activities, ~~would be~~ consistent with coastal 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 (see Policy 21).

Historic and Scenic Resources Policies

Policy 23

Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archeology or culture of the state, its communities, or the nation.

Among the most valuable man-made resources are those structures or areas which are of historic, archaeological, or cultural significance. The protection of these structures must involve a recognition of their importance by all agencies and the ability to identify and describe them. Protection must include concern not just with specific sites but with areas of significance, and with the area around specific sites. The policy is not to be construed as a passive mandate but must include active efforts, when appropriate, to restore or revitalize through adaptive reuse. While the program is concerned with the preservation of all such resources within the coastal boundary, it will actively promote the preservation of historic and cultural resources which have a coastal relationship.

The 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 listed, nominated to be listed, or determined eligible to be listed on the National or State Registers of Historic Places.
3. A resource on or nominated to be on 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 of Parks, Recreation and Historic Preservation.
5. A local landmark, park, or locally designated historic district that is located within the boundary of an approved local waterfront revitalization program.
6. A resource that is a significant component of an Urban Cultural Park.

Within the waterfront area in Nyack, the John Green House has been noted for historic significance. Built in 1817, is it believed to be the oldest surviving residence in the Village and was donated in 2015 to the John Green Preservation Coalition, a non-profit historic preservation group that is undergoing extensive renovation of the house. Funds are being raised for future work, with a goal of opening the house to the public in 2018 to coincide with the dedication of the New NY Bridge. In addition, the John

[Green House has been nominated for listing on the State and National Registers of Historic Places, with plans to seek local historic designation once the façade work is complete.](#)

Guidelines

All practicable means to protect structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities or the Nation shall be deemed to 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. A significant adverse change includes but is not limited to:

1. Alteration of or addition to one or more of the architectural, structural, ornamental or functional features of a building, structure, or site that is a recognized historic, cultural, or 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 judgement about compatibility should focus on the visual and locational 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 be construed to prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthwork, 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. The policy shall not prevent the ordinary maintenance, repair, or proper restoration according to the U.S. Department of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" of any building, structure, site or earthwork, or component thereof of a

recognized historic, cultural or archaeological resource which does not involve a significant adverse change to the resource, as defined above.

Buildings and structures that are possibly eligible to be listed on the National register of Historic Places are listed in the Inventory Section. The recognition and preservation of historic buildings and places and archeological resources will be supported and encouraged.

The NYS Office of Parks, Recreation and Historic Preservation will be consulted regarding archeological sites when soil disturbances are proposed.

Policy 24

Prevent impairment of scenic resources of statewide significance.

The Coastal Management Program will identify on the coastal area map scenic resources of statewide significance. The following general criteria will be combined to determine significance:

Quality. The basic elements of design (i.e., two-dimensional line, three-dimensional form, texture and color) combine to create all high quality landscapes. The water, landforms, and man-made components of scenic coastal landscapes exhibit variety of line, form, texture and color. This variety is not, however, so great as to be chaotic. Scenic coastal landscapes also exhibit unity of components. This unity is not, however, so complete as to be monotonous. Example; The Thousand Islands where the mix of water, land, vegetative and man-made components creates interesting variety, while the organization of these same components creates satisfying unity.

Often, high quality landscapes contain striking contrasts between lines, forms, textures and colors. Example: A waterfall where horizontal and vertical lines and smooth and turbulent textures meet in dramatic juxtaposition.

Finally, high quality landscapes are generally free of discordant features, such structures or other elements which are inappropriate in terms of siting, form, scale, and/or materials.

Uniqueness. The uniqueness of high quality landscapes is determined by the frequency of occurrence of similar resources in a region of the State or beyond.

Public Accessibility. A scenic resource of significance must be visually and, where appropriate, physically accessible to the public.

Public Recognition. Widespread recognition of a scenic resource is not a characteristic intrinsic to the resource. It does, however, demonstrate people's appreciation of the resource for its visual, as well as evocative, qualities. Public recognition serves to reinforce analytic conclusions about the significance of a resource.

The Village of Nyack Waterfront Revitalization Area is not located within any of the six Scenic Areas of Statewide Significance (SASS) that have been identified by the New York State Department of State. However, the Village has recognized the importance of scenic views to the Village's appeal, both for local residents and visitors. The same characteristics outlined above by the State Coastal Management Program for SASS's are also important to the Village of Nyack and are relevant both to views of the

Hudson River from the land-side of the Village, as well as views of the Village from the River itself. To protect view corridors, the Village has established View Protection Corridors in Section 360 Attachment 5 of the Village Code.

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.

Policy 25A

Protect and enhance views from Route 9W, Tallman Place, Fourth Avenue, Second Avenue, First Avenue, and Memorial Park (See Inventory and Analysis).

Policy 25B

Support the creation of a management plan for the Tappan Zee Scenic District.

Policy 25C

Preserve and restore the unique picturesque maritime identity of the waterfront area.

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

When the New York State Thruway Authority announced plans to augment the Tappan Zee Bridge in the 1980s, adjacent communities formed the Tappan Zee Preservation Coalition. The Coalition worked with NYS DEC to designate the area along the Hudson River from the New Jersey Border north to Hook Mountain in Upper Nyack the Tappan Zee Scenic District. The scenic district designation affords honorary protection and impacts should be taken into account prior to issuance of NYS DEC permits.

Recently, areas within Nyack's waterfront boundary have been designated as part of a scenic district pursuant to the authority of Article 49 of the Environmental Conservation Law. The aforesaid district has been designated as the TAPPAN-ZEE SCENIC DISTRICT. The Tappan Zee Scenic District encompasses all those lands and waters described as follows:

Beginning at the southeast corner at the center line of the Hudson River ~at the New Jersey state line proceeding west, along the state line, to a point on the east right-of-way line of the Palisades Interstate Parkway. Then north, along this right-of-way line, to a point 1,000 feet west of U.S. Route 9w and Tweed Boulevard. Then north, following this offset, to a point 1,000 feet west of the intersection of Tweed Boulevard and South Boulevard. Then north following this offset, to a point 1,000 feet west of the intersection of U.S. Route 9W and South Boulevard. Then north following this offset, to a point 1,000 feet south of Christian Herald Road. Then west, following this offset to Mountain View Avenue.

~~Then north along Mountain View Avenue and crossing Christian Herald Road to a 1,000 foot offset and returning east to a point 1,000 feet west of U.S. Route 9W. Then north, following this offset to a point 1,000 feet opposite the southwest corner of Hook Mountain State Park. Then east, to the southwest corner of Hook Mountain State Park. Then north, following the state park boundary, to a point 200 feet west of Rockland Lake Landing Road. (County Route 92). Then north, crossing Rockland Landing Road, to a point 200 feet east of this road. Then north, following this offset to a point 500 feet west of the shoreline of the Hudson River. Then south, following this center line to the start.~~

Local governments within the jurisdiction of the Tappan Zee Scenic District are encouraged to prepare a plan for the management of the lands and waters within the Tappan Zee Scenic Area, consistent with the values of the district, with the needs and desires of the residents of the area and with appropriate State and federal agencies. The plan should consist of a map showing the boundaries of the area, a program for the management of existing and future land and water uses, fully reflecting the application of management techniques available to the various levels of government and to private landowners and a program for coordinated implementation of the plan by assignment of responsibility to the appropriate governmental unit at the State, federal, county and local level.

When considering a proposed action which would affect a scenic resource of local significance, agencies and the Village shall ensure that the action would be undertaken to protect, restore or enhance the overall scenic quality of the Nyack waterfront area. Activities which could impair or further degrade scenic quality include:

1. The irreversible modification of geologic forms, the destruction or removal of vegetation, the destruction, or removal of structures, whenever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource; and
2. The addition of structures which because of siting or scale will reduce the identified views or which because of scale, form, or materials will diminish the scenic quality of an identified resource.

The following siting and design guidelines should be used to ensure the protection, restoration or enhancement of the visual quality of this area wherever possible. It should be recognized that each development situation is unique and that the guidelines will have to be applied accordingly. They include:

1. Site 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. Cluster or orient structures to retain views, to save open space and attractive natural features, and to provide visual organization to a development.
3. Prevent, wherever possible, the blocking of Hudson River Views from upland areas.
4. New highway and building construction along Route 9W should, where feasible, open up potential views.
5. Incorporate sound, existing structures (especially historic buildings) into the overall development scheme.

6. Preserve and restore the appearance of historical buildings and neighborhoods (see Policy 23).
7. Encourage distinguished architectural expressions throughout Nyack and prevent excessive dissimilarity, uniformity, inappropriateness, or poor quality of design in the exterior appearance of buildings. This would include:
 - a. Excessive dissimilarity in cubical contents, gross floor area, height or other significant design features such as materials or quality or architectural design.
 - b. Apparently identical front or side elevations; substantially identical size and arrangement of doors, windows, etc.; other significant identical features such as material, roof line, height, etc.
 - c. Inappropriateness in relation to the established character of other structures in the area to an extent that would adversely affect the desirability of the immediate area and neighboring areas for residential, business or other purposes.
8. New buildings, structures or activities should be designed and constructed to be visually compatible with adjacent or nearby buildings, structures, or sites of special historic or architectural importance. This statement should not be interpreted to mean that new buildings should be designed or look like the high-rise residential structures that were constructed under the PRD guidelines.
9. Special consideration should be given to the design, form, material, texture, color, siting (location), and landscaping of such new buildings, structures, or activities so that they will be compatible with the special historic or architecturally important buildings or sites to which they are visually related.
10. Remove deteriorated and/or degrading elements.
11. Maintain or add vegetation to provide interest, encourage the presence of wildlife, integrate 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. To the maximum extent possible, insure that trees over 3 inches in diameter, measured 3 feet above the base of the trunk, are retained.
12. Require that all new development screen playgrounds, parking and service areas from the view of adjacent residential lots and streets and choose landscaping that is in character with that generally prevailing in the neighborhood.
13. Use appropriate materials, in addition to vegetation, to screen unattractive elements.
14. Maintain or restore the original land form, except when changes screen unattractive elements and/or add appropriate interest.
15. Signage should be consistent, informative and attractive and should not interfere with the scenic quality of the area. Signs shall be stationary and made of permanent materials.

Nyack is unique in having a scenic public area at Memorial Park to view the Hudson River. Views of the River are also spectacular from Piermont Avenue, Burd Street, Main Street, Lydecker Street, High Avenue, First Avenue, Second Avenue, Fourth Avenue, Tallman Place, and sections of Route 9W. Additional scenic roads and vistas have been identified in the Inventory and Analysis Section.

Actions to maintain and improve visual access to the water or to mitigate the adverse impact of future development will be pursued. Of particular importance is the preservation of views to the water from

the hillside which slopes up from the river and prevention of major intrusions into views of the Village as seen from the river, the Tappan Zee Bridge and the eastern shore. In this latter case, special care will be taken to prevent the siting of structures so as to extend above the ridge line, as seen from these vantage points, and to avoid the placement of structures in the hillside environment which are discordant because of height, scale, color or materials of construction.

While many factors can affect the visual impact of future development, height and location are two of the most obvious. If all zoning districts had the same height limit, the ultimate profile of development would follow that of the land itself and not impose abnormal visual barriers to uphill properties. However, while most of the zoning districts in the Village have height limits within five feet of each other, several exceed the standard 35-40 feet. The potential visual impact of these intrusions beyond the basic threshold is one visual concern. Another concern is obstruction of views to and from the river from streets and other public places.

To address these concerns, the following guidelines will be used to evaluate the visual impact of proposed development:

1. Prior to approval of any building within the waterfront boundary area, a visual impact assessment shall be submitted to the Planning Board in addition to all other data required for Site Development Plan Approval. Such assessment shall analyze the effect of the structure(s) on views from upland properties and from the river.

The assessment will also include a superimposed computer generated photograph of the proposed development. A scaled model to depict design colors, materials, density and compatibility with the surrounding environment will also be required. With respect to the submission of a superimposed computer generated photograph and scale model, this is intended to apply to reasonably sized projects and certainly large-scale projects.

2. A view corridor to maintain an unobstructed view from public streets will be established just east of Broadway, at the crest of the hill sloping to the river. The corridor, measured both vertically and horizontally, will be used as a standard for height and set-back requirements. The corridor will become wider as it approaches the river, but higher above ground as elevations above the river decrease.

Agricultural Lands Policy

Policy 26

Conserve and protect agricultural lands in the state's coastal area.

Policy 26 is not applicable. The Village of Nyack does not contain any agricultural lands in the coastal area.

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 shoreline location.

Demand for energy in New York will increase, although at a rates 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 [Article 6 of the New York State Energy Law](#). [That Article requires the preparation of a State Energy Master Plan](#). With respect to transmission lines [and the siting of major electric generating facilities](#), ~~Articles VII and X~~ 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 shoreline location providing additional electric capacity](#). ~~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 the siting regulations under these articles~~ are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization of Coastal ~~Areas and Inland Waterways Resources~~ Act. That Act is used for the purposes of ensuring consistency with the Coastal Management Program and this Local Waterfront Revitalization Program.

In consultation with the Village of Nyack, the Department of State will comment on State Energy Office policies and planning reports as may exist; present testimony for the record during 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 areas are made consistent with the coastal policies and purposes of this Local Waterfront Revitalization Program.

Policy 28

Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.

The Inventory and Analysis discusses the problems with ice flows and the pressure it creates on docks.

Prior to undertaking actions required for ice management, an assessment must be made of the potential effects of such actions upon the production of hydro-electric power, fish and wildlife and their habitats as will be identified in the Coastal Area Maps, flood levels and damage, rates of shoreline erosion damage, and upon natural protective features.

Following such an examination, adequate methods of avoidance or mitigation of such potential effects must be utilized if the proposed action is to be implemented.

Policy 29

Encourage the development of energy resources on the Outer Continental Shelf, in Lake Erie and in other water bodies, and ensure the environmental safety of such activities.

Policy 29 is not applicable. The Village of Nyack is not located on the Outer Continental Shelf or Lake Erie.

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.

Municipal, industrial, commercial and residential discharges include not only "end-of-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. Also, the regulated industrial discharges are both those which directly empty into receiving coastal waters and those which pass through municipal treatment systems before reaching the State's waterways.

State and federal laws adequately govern pollutant discharge into coastal waters. However, constant inspection and adequate monitoring of coastal waterways are necessary to ensure that all regulations are enforced. Municipal government will take all necessary steps, both at the local level and in cooperation with higher levels of government, to apply existing monitoring and enforcement machinery and, where appropriate, to strengthen it.

Policy 31

State coastal area policies and management objectives 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.

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 established by the State pursuant to the Federal Clean Water Act.

The classification of the Hudson and other coastal tributaries, as set forth in Section II, is compatible with their present use and future objectives. Any action taken in the coastal area which would lead to reduction of such classification will be considered inconsistent with these coastal policies.

Policy 32

Encourage the use of alternative or innovative 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.

Alternative systems include individual septic tanks and other subsurface disposal systems, dual systems, small systems serving clusters of households or commercial users, and pressure or vacuum sewers. These types of systems are often more cost effective in smaller, less densely populated communities and for which conventional facilities are too expensive.

Policy 33

Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.

Best management practices include both structural and non-structural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff and combined sewer overflows. In some instances, structural approaches to controlling stormwater runoff (e.g., construction of retention basins) and combined sewer overflows (e.g., replacement of combined systems with separate sanitary and stormwater collection systems) are not economically feasible. Proposed amendments to the Clean Water Act, however, will authorize funding to address combined sewer overflows in areas where they create severe water quality impacts. Until funding for such projects becomes available, nNon-structural approaches (e.g., improved street cleaning, reduced use of road salt) will be encouraged in such cases.

Siltation at the mouth of the Nyack Brook is a result of the accumulation of sediments entering the storm drainage system. Improved maintenance (clearing of catch basins) will address this problem as will standards applied to construction activities in the Village. See Policy 37.

The Village sewer system collects sewage from Upper Nyack and South Nyack. The pumping station and transmission pipes are owned by Orangetown. Illegal storm sewer hook-ups and other inflows to the Village's sanitary system have created pumping and overflow problems at the pumping station and treatment plant, resulting in raw effluent discharge into the Hudson River and the Sparkill Creek, which flows into the Hudson River in Piermont. The illegal storm sewer hook-ups should be disconnected. The other sources of inflow should be identified and eliminated.

Policy 34

Discharge of waste materials into coastal waters from vessels subject to state jurisdiction into coastal waters will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.

All untreated sanitary waste from vessels is prohibited from being discharged into the State's coastal waters. Where coastal resources or activities require greater protection than afforded by this requirement the State may designate vessel waste no discharge zones. Within these no discharge zones the discharge of all vessel waste whether treated or not is prohibited. A determination from EPA that an adequate number of vessel waste pump out stations exists is necessary before the State can designate a no discharge zone. The State prepared a Clean Vessel Act Plan which identifies the coastal waters for

which no discharge zones are needed and the number of vessel waste pump outs required to obtain the determination from EPA. The discharge of other wastes from vessels is limited by State law.

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the State's waters is regulated by State Law. Priority should be given to the enforcement of this Law in significant habitats and beaches which need protection from contamination by vessel wastes. Specific effluent standards for marine toilets have been promulgated by the Department of Environmental Conservation (6 NYCRR, Part 657) and shall be strictly enforced. Expansion or development of new marinas will be required to provide onshore pump out facilities unless it can be shown that such facilities are not feasible.

Policy 35

Dredging and filling in coastal waters and disposal of dredged material will be undertaken in a manner that meets existing State permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.

Dredging, filling, and dredge material disposal are activities that are needed often proves to be essential for waterfront revitalization and development, such as maintaining navigation channels at sufficient depths, pollutant removal, and meeting other coastal management needs. Such dredging projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands, and other important coastal resources. Often these adverse effects can be minimized through careful design and timing of the dredging operation, and proper siting of the dredge spoil disposal site, and the beneficial use of dredged material. Such projects shall only be permitted if they satisfactorily demonstrate that these anticipated adverse effects have been reduced to levels which satisfy State 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 and use of coastal resources (State Coastal Management policies 7, 15, 19, 20, 24, 26, and 44).

All such dredging operations would be under the jurisdiction of the U.S. Army Corps of Engineers and would require a dredging permit from that agency.

Dredging to restore proper depths adjacent to the existing marinas and dock space is important to maintain navigation. In 2016, the Village of Nyack issued an RFP for sediment removal at the Nyack Marina. The Village selected a contractor and dredging work was completed during late 2016 and early 2017. This project was critical to the successful operation of the Marina, which also underwent repairs due to storm damage from Superstorm Sandy and Hurricane Irene. In the event that future dredging projects are required to maintain navigation channels, provide ferry access, or ensure continued operation of public and private docks, the Nyack Boat Club, Hook Mountain Yacht Club, mooring fields, or other water-dependent resources, such activities should be supported, provided that they satisfy State and Federal permitting requirements.

Equally important is the removal of the abandoned barges in front of Memorial Park which present a hazard to navigation. The effect on littoral drift and wave action must be evaluated prior to removal and construction of any new facilities.

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.

This policy shall apply not only to commercial storage and distribution facilities, but also to residential and other users of petroleum products and radioactive and other toxic or hazardous materials. Spills, seepage or other accidents on or adjacent to coastal waters or which, by virtue of natural or man-made drainage facilities, eventually reach coastal waters are included under this policy. See also Policy 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.

Best management practices used to reduce these sources of pollution include, but are not limited to, soil erosion control practices, and surface drainage control techniques. See also explanations of Policy 14 and Policy 34.

The following standards applied to construction activity will reduce loss of soil and resulting siltation:

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

Policy 38

The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.

Local groundwater supplies and surface water of the Hudson River must be protected. The impact of an action on the quality of the Hudson River water will be a major factor in planning and decision making. Such impacts include those resulting from construction activity, land use management, point and non-point pollution sources, and direct actions on the water ways.

Nyack obtains its drinking water from an intake on the Hackensack River in the Town of Clarkstown, south of DeForest Lake. Three hazardous waste disposal sites are located in Clarkstown in proximity to the Village water supply intake. To the east and northeast of the intake, and situated between NY Routes 59 and 303 and the Thruway are the privately owned Dexter landfill and the closed Nyack municipal landfill. Within several hundred feet south of the intake is the Orange and Rockland Utilities landfill. Incinerator residues have been found in the 11 acre Dexter landfill, and other illegally dumped wastes are suspected to be present. The Orange and Rockland landfill is the disposal site of old electric transformers, many of which contain polychlorinated biphenyl (PCBs). Leachate from this landfill could seriously affect the water quality of the Hackensack River, which is a major source of water for Nyack. Measures must be taken to ensure that leachate from these landfills does not reach the Hackensack River.

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.

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

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law ~~{527-0901.3}~~[\(Section 27-0901\(3\)\)](#) as "a waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: ~~(a)~~[\[1\]](#) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or ~~(b)~~[\[2\]](#) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed". A list of hazardous wastes (NYCRR Part 366) has been adopted by DEC (6NYCRR Part 317).

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 waste is the contamination of water resources, other related problems may include: filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

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.

A number of factors must be considered when reviewing a proposed site for facility construction. One of these factors is that the facility "not discharge any effluent that will be unduly injurious to the propagation and protection of fish and wildlife, the industrial development of the State, the public health, and public enjoyment of the receiving water." 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 an applicant's request to construct a new electric generating facility.

Policy 41

Land use or development in the coastal area will not cause national or state air quality standards to be violated.

New York's Coastal Management Program incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clean Air Act and State laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the coastal area.

To the extent possible, the State Implementation Plan will be consistent with coastal lands and water use policies. Conversely, coastal management guidelines and program decisions with regard to land and water use and any recommendations with regard to specific sites for major new or expanded industrial, energy, transportation, or commercial facilities will reflect an assessment of their compliance with the air quality requirements of the State Implementation Plan.

The Department of Environmental Conservation will allocate substantial resources to develop a regulatory and management program to identify and eliminate toxic discharges into the atmosphere. The State's Coastal Management Program will assist in coordinating major toxic control programming efforts in the coastal regions and in supporting research on the multi-media nature of toxics and their economic and environmental effects on coastal 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.

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

Policy 43

Land use or development in the coastal area must not cause the generation of significant amounts of the acid rain precursors: nitrates and sulfates.

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

Wetlands Policy

Policy 44

Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

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

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. The National Wetlands Inventory maps of Nyack prepared by the U.S. Fish and Wildlife service will also be used to confirm the existence of wetlands that should be preserved.

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

- 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;
- erosion, flood and storm control;
- natural pollution treatment;
- groundwater protection;
- recreational opportunities;
- educational and scientific opportunities; and
- aesthetic open space in many otherwise densely developed.