# Town and Village of Malone Local Waterfront Revitalization Program

Adopted: Town of Malone Town Board, October 26, 2011 Village of Malone Village Board, October 13, 2011

Approved: NYS Secretary of State, Cesar A. Perales, March 9, 2012

# The Salmon River Greenway: A River of Opportunities



This document was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund Act.

Village of Malone

# Mayor Brent Stewart

RECEIVED DIVISION OF LOCAL GOVERNMENT

OCT 2 0 2011

Village Trustee, Dailon Patnode Village Trustee, Todd LePine

October 14, 2011

ALBANY OFFICE DEPARTMENT OF STATE Village Trustee, Susan Hafter Village Trustee, Joe Riccio

Rec'd Coastal Resources

OCT 2 0 2011

Kevin Millington NYS Department of State 99 Washington Avenue, Suite 1010

#### RE: Town and Village of Malone Local Waterfront Revitalization Program

Dear Mr. Millington:

Albany, NY 12231

I am pleased to report that the Village Board of Trustees of the Village of Malone adopted the Town and Village of Malone Local Waterfront Revitalization Program and passed the Waterfront Consistency Review Law; Waterfront Overlay District Law; and Stormwater Management and Erosion and Sediment Control Law at its meeting on October 13, 2011. Enclosed are copies of the adoption resolutions for the LWRP and the local laws for your files. I have also enclosed a copy of the Negative Declaration for the LWRP.

The Village of Malone hereby requests approval of the LWRP by the Secretary of State.

Sincerely,

Gent S. Stewart

Brent S. Stewart, Mayor

BSS/cad

Enclosures

14 Elm Street, Malone, New York 12953 Telephone: 518-483-4570 \* Fax: 518-481-6737 \* Email: vmalone@westelcom.com

27 Airport Road • Malone, New York 12953

**Recid Coastal Resources** 

NOV 0 2 2011

October 27, 2011

Kevin Millington NYS Department of State 99 Washington Avenue, Suite 1010 Albany, New York 12231

RE: Town and Village of Malone Local Waterfront Revitalization Program

Dear Mr. Millington,

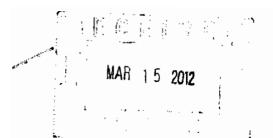
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The Town of Malone hereby requests approval of the LWRP by the Secretary of State.

Sincerely,

Howard F. Maneely Supervisor

Encs.





STATE OF NEW YORK

ANDREW M. CUOMO Governor

CESAR A. PERALES SECRETARY OF STATE

March 9, 2012

Honorable Todd LePine Mayor Village of Malone 14 Elm Street Malone, NY 12953

Dear Mayor LePine:

I am pleased to inform you that I have approved the Town and Village of Malone Local Waterfront Revitalization Program, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this program is to be commended for developing a comprehensive management program that promotes the balanced preservation, enhancement, and utilization of the Town and Village's valuable local waterfront resources along the Salmon River.

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

The approved Local Waterfront Revitalization Program will be available on the website of the Department of State, at <u>www.dos.ny.gov/communitieswaterfronts/WFRevitalization/LWRP\_status.html</u> If you have any questions, please contact Kevin Millington of the Office of Communities and Waterfronts at 518-473-2479.

Sincerely,

Cisar & Kunha

Cesar A. Perales Secretary of State



STATE OF NEW YORK DEPARTMENT OF STATE

ANDREW M. CUOMO GOVERNOR CESAR A. PERALES SECRETARY OF STATE

March 9, 2012

Honorable Howard Mancely Supervisor Town of Malonc 27Airport Road Malone, NY 12953

Dear Supervisor Maneely:

I am pleased to inform you that I have approved the Town and Village of Malone Local Waterfront Revitalization Program, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this program is to be commended for developing a comprehensive management program that promotes the balanced preservation, enhancement, and utilization of the Town and Village's valuable local waterfront resources along the Salmon River.

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Sincerely,

Crow & Junka

Cesar A. Perales Secretary of State

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# SECTION I WATERFRONT REVITALIZATION AREA BOUNDARY

The boundary of Malone's LWRP Waterfront Revitalization Area (WRA) includes the entire Village of Malone, along with portions of the Town of Malone to the north and south of the Village. The WRA can be specifically described as follows:

The northern boundary of the WRA runs along the boundary of the Town of Malone and the Towns of Constable and Westville, to the east side of NY Route 37 and the Houndsville Road intersection. The western boundary runs south from the Town of Westville boundary along the east side of NY Route 37, continuing south following the Village of Malone's western boundary, and then along the east side of Webster Road to the point at which it intersects Branch Brook. From here, the boundary continues south near NY Route 30 to a point 250 feet west of the centerline of Branch Brook. The boundary continues south 250 feet from the centerline of Branch Brook to the intersection of Fayette Road, east along the north side of Fayette Road to the intersection of Teboville Road to the intersection of Porter Road, and then north along the west side of Teboville Road, which becomes Goodman Road. The boundary continues north along the west side of Goodman Road, after which it follows the Village of Malone easternmost municipal boundary continuing north on the west side of Houndsville Road ending at the northern municipal boundary with the Town of Constable.

Figure I-1, "Waterfront Revitalization Area Boundary Map," depicts the WRA boundary.

# LWRP Vision and Goals Statement

The Town and Village of Malone, situated along the banks of the Salmon River, have long been connected to, and dependent upon, their relationship to the waterfront. Recognizing the need to preserve this resource and the community that it fosters, Malone has undertaken the LWRP process in order to craft a vision, a set of policies and a list of recommendations and implementation techniques that will further that goal.

It is the intent of this LWRP to put forth policies and recommendations to improve current local economic conditions while maintaining and increasing water-dependent uses and public access to the waterfront. This includes preserving and enhancing the unique characteristics and environmental qualities of the relationship between the Salmon River and the surrounding community. Protection of the water quality, fishery resource, scenic value, and recreational opportunities provided by the river are of paramount importance to Malone. This LWRP seeks to provide a balance of environmental, recreational and economic development initiatives, while preserving the unique natural and cultural character of Malone's Waterfront and Village Core areas.

This LWRP will revitalize downtown Malone through physical and visual connections to the Salmon River, community facilities, and by creating new and improving existing recreational facilities. In addition, the LWRP is seeking to find creative ways to attract residents and visitors to the downtown area and offer a more diverse range of community activities and commercial goods and services. Malone's Village core should be a walkable area connecting neighborhoods, parks, cultural venues, small businesses, boutiques and restaurants in a cohesive way with one another as well as with the Salmon River. Malone seeks to develop a business strategy that fosters community spirit and collaborative efforts within Malone's business sector.

The Town and Village of Malone seek to strengthen their identity as an historic waterfront community through the promotion and preservation of historic, archaeological, and cultural resources that have a waterfront relationship. This strategic effort includes preserving the exceptional visual quality of the entire Salmon River corridor. The land use codes and municipal regulations are designed to encourage a mix of uses on the waterfront that are consistent with this LWRP's policies, that preserve and protect the local ecological resources, and that will best serve Malone's needs.

# SECTION II INVENTORY AND ANALYSIS

# A. INTRODUCTION

The Inventory and Analysis Section of the LWRP presents a comprehensive inventory and analysis of existing conditions in the Waterfront Revitalization Area (WRA) boundary. Section II identifies important resources, problems and opportunities. References to the downtown area are interpreted as the "Village Core" which is split by the Salmon River and bounded by Pearl Street on the east, Duane Street on the west, Main Street on the north and College Avenue on the south. References to the Salmon River are made using the terms "right bank" and "left bank". Right bank and left bank are identified as one faces downstream, the River flowing from south to north. The term Malone, when used without a reference to the Town or Village, infers the Town and Village together.

# **B. HISTORIC AND SCENIC RESOURCES**

# 1. History of Malone

Malone was a vast wilderness before its first settlers carved out dwellings for themselves in 1802. The isolated region of extreme northern New York served as hunting and fishing grounds for the Mohawk people of the Iroquois Confederacy. In 1786, the so-called Old Military Tract, comprised of sections of what are now Franklin, Essex and Clinton Counties, was set aside to satisfy the land claims of Revolutionary War soldiers. None of the eligible soldiers chose to settle on the property available to them and instead the land was sold to speculators and investors. One of these investors was Alexander Macomb, who, having seen the potential of the land in northern and western New York, purchased 3.6 million acres in 1791 from the state. In turn, this massive land ownership was broken up when Macomb sold portions of his vast holdings to friends and business associates, including Richard Harison. The Town of Malone was officially created in 1805, having previously been a part of the Town of Chateaugay, which was founded in 1799.

The earliest export industry known in Malone was the production of potash, consisting of the burning of trees and other plants and processing of the ashes for eventual shipment to Europe. As might be expected, farming was the occupation of the first settlers, who grew flax and hops in addition to their food crops. Soon after the first dwellings were erected, businesses began to spring up as well to make use of the raw materials abundant in the wilderness. By the 1820s, tanneries, distilleries, saw mills, carding and fulling mills, a hat factory and gristmills had been erected. These manufacturing businesses led to further settlement and other businesses sprang up as well, including hotels, taverns, stores, with the first newspaper established in 1820. As the county seat, Malone also contained the county courthouse and requisite number of law offices.

The geographic isolation, which in turn led to isolation from markets and delay in communication, was lessened in the years following the 1820 completion of the Military Turnpike from Plattsburgh to Malone. This road had been authorized as early as 1811, but a lack of funding and manpower meant that the road was hardly effective as a highway and when President James Monroe passed through Malone in 1817 on his tour of the northern border, he

found the roads barely passable. Upon his return to Washington, Monroe ordered soldiers at Plattsburgh to begin work on the road. The improvements to the Military Turnpike meant that a stage line could be run from Plattsburgh, through Malone, to Ogdensburg, lowering travel times, mail delivery times, and the prices of many goods. An influx of new residents also occurred in the 1820s as a result of improved roads. Communication and travel were again significantly increased when, in 1850, the first passenger train of the Ogdensburg and Lake Champlain Railroad puffed into Malone. Convenience was augmented and freight prices fell with the appearance of another railroad through Malone in 1892.

It is from this era of connectivity via the railroad, that the present face of Malone's Main Street dates. Once the railroad brought greater ease of movement of goods and people, a new prosperity blossomed in Malone. Many of the old commercial buildings on Main Street were given impressive new facades. When small businesses succumbed to fire, whole blocks of stone or brick four-story buildings were erected in their place. In the residential sections of Malone, grand frame houses with elaborate porches and front columns were being built, most of which are still in use today.

Malone's proximity to the Canadian Border has defined its role in several military conflicts. In the War of 1812, both British and American troops occupied Malone, using up its meager store of food and supplies. In the Civil War, there was considerable apprehension that there would be a Confederate Raid from Canada upon Malone. Although a raid on Malone never took place, residents' fears were proved justified after just such a raid on St. Albans, VT. Shortly after the

Civil War, Malone served as a staging point for the Fenian Raids, in 1866 and 1870. "Briefly, the two Fenian raids were unsuccessful attempts by an Irish nationalist group to cross the American border in order to capture Canada and use it to coerce England to grant Ireland independence." <sup>1</sup>

Malone's position relative to the Northern Border was also a factor in its involvement in the Underground Railroad. An active Anti-Slavery Society had been established in Malone in 1829, with many of its leading citizens as members. Both the First



**Ballard Mill Falls** 

Congregational Church (on Main Street) and the Dimmick House (on Route 37) have extant physical structures to accompany anecdotal and documentary evidence of Underground Railroad activity. The more daring abolitionists secreted runaway slaves in wagons of hay or lumber and dashed across the border into Canada to bring these people to freedom.

<sup>&</sup>lt;sup>1</sup> Edgar W. (Ted) Mills, <u>North Country Settlers: Malone in the 19<sup>th</sup> Century</u>. Brushton, NY: Aspect Books, 2002. P. 108.

Throughout all of this history, the location of Malone on the Salmon River has remained a constant. The River winds its course northwesterly through farms toward the Village, bisecting the once isolated settlement into east and west and running under Main Street. The first party to survey the land on which Malone now stands felled a hemlock tree to cross the Salmon River. A later bridge was constructed of logs and then planks, and in 1817, the wooden bridge spanning the Salmon River at Main Street was replaced with a stone arch bridge. The River provided power for the early mills and now provides hydroelectric power for modern-day homes and businesses. This natural resource which literally runs through the back-yards of Malone now provides us with the opportunity and focal point to rejuvenate our community and gives us a prime location for parks, nature walks, and tourist venues.

# 2. Historic Resources

# **Buildings and Places on the National Register of Historic Places**

#### First Congregational Church

First Congregational Church is a Romanesque style church building located at the corner of Clay and Main Streets that was placed on the National Register in 1999. The Church is the third church building of the congregation and was built in 1881 on the same site of the previous two buildings. A previous building was used as a stop on the Underground Railroad, and the church has officially been designated as part of NY State's Underground Railroad Heritage Trail.

# Horton Gristmill

One of the earliest structures in Malone, was built in 1856 at the site of a previous gristmill, it is located on the banks of the Salmon River and visible from Main Street, which helps highlight the importance of the River in the early life of Malone. Currently in disrepair, the Horton Gristmill was listed on the National Register of Historic Places in 1975 and is now a property of the Malone Revitalization Foundation.





**The Malone Armory** 

The Horton Gristmill

#### Malone Armory

Located on Main Street, the Armory was occupied during the winter of 1813-1814 by a detachment of the American Army. The Malone Armory was listed on the National Register of Historic Places in 1995. Used as an armory by the State Militia, later the New York State National Guard, the building was decommissioned from military use and in 2004 was converted to use as the Mary Claire Sherwin Greater Malone YMCA.

# Anselm Lincoln House

Home to one of Malone's first settlers, and one of the Village's oldest structures, built circa 1825 at 49 Duane Street. Located on a bluff overlooking the Salmon River, the house was listed on the National Register of Historic Places in 1975. It is currently an active residence.

# Malone Freight Depot

Located at 99 Railroad Street, the Malone Freight Depot was listed on the National Register of Historic Places in 1976. It was significant in the late 1800's.

# Paddock Building

Located at 34 West Main Street, the Paddock Building is one of the impressive commercial buildings lining Malone's Main Street. Listed on the National Register of Historic Places in 1976, the building was constructed sometime in the mid 19<sup>th</sup> century.



**Old Malone Train Station and Library** 

# Post Office

The United States Post Office Building, listed on the National Register of Historic Places, is located on the corner of Main and Washington Streets.

# **Buildings with Local Historic Significance**

# <u>Dimmick House</u>

The Dimmick House, located along Route 37N, was built circa 1820. The house was the home of Major John Dimmick, a retired military officer and conductor for the Underground Railroad. The house contains an underground railroad hiding room in the base of the chimney.

# Ballard Mill

The Ballard Mill is the original location of J.O. Ballard and Company Malone Woolen Mills, producer of wool yarn. The construction date is unknown.



Main Street

# Franklin County Fairgrounds

Originally known as Franklin County Agricultural Society, the Franklin County Fairgrounds held the first fair in 1850.

# Franklin County Historical and Museum Society and House of History

Built circa 1864, the Franklin County Historical and Museum Society and House of History is a Tuscan-style brick house, located at 51 Milwaukee Street. It currently serves as headquarters of the Franklin County Historical Society and Museum.

# First Methodist Church

Located on West Main Street, the First Methodist Church was originally constructed in 1838.

#### <u>Franklin Academy</u>

Built originally in 1836, the current building was constructed in 1881 and is now home to the Malone Middle School.

# Flanagan Hotel

The Flanagan Hotel, constructed in 1914, community's Main Street is the centerpiece. The Hotel still stands, however, has been heavily damaged by fire. It was purchased in 2006 by a private investor, who has conducted asbestos abatement and cleaning and gutting of the building. In 2009, a Restore NY grant was secured for renovation into a new hotel.

#### Northern NY School for the Deaf

The original school opened in 1884 as the

Northern Institution for Deaf-Mutes at a different location. The school operated on College Avenue until its closure in 1943. After its closure, the school became a satellite location for Clarkson College until 1951. In 1957, the school and associated lands were deeded to the Malone School District. During the 1980's, North Country Community College occupied the campus until it relocated to Ballard Mill. The campus is now empty and in need of rehabilitation or redevelopment.

# 3. Scenic Resources

The Salmon River sits within a valley surrounded by the rolling hills of the rural plateaus within Franklin County, in the northern fringe of New York State. The River is visible from roads that travel up the mountain in the southern portion of the Town and along the roads on either side of the River. As the River meanders into the Village, the former industrial and residential buildings that once dominated the shoreline limit visual access. Main Street sits above the River, and travelers and pedestrians are



Salmon River Upstream of Chasm Falls



# The Flanagan Hotel

afforded a unique look at the River and the Whittlesey Dam. North of the River, high banks of the east shore provide a steep view, until eventually the topography levels, and the River is again accessible from the roadside.

Lamica Lake is a quiet area home to many birds. Its undeveloped surroundings encompass the lake and offer a quiet, undisturbed setting. One of the most scenic attributes of the Salmon River is the section downstream of the Macomb Dam, where the River flows into a deep, stone gorge, unique to any other part of the River within Malone.

# 4. Analysis of Historic and Scenic Resources

The Town and Village of Malone are fortunate to have many of their historic buildings intact and the fabric of the original downtown area still in place. As part of an initiative to create an historic district in the Village, an inventory of the buildings was developed. Buildings outside of the Village Core should also be inventoried and identified for their role in Malone's history. Historic and cultural markers plus an updated Town and Village wide tour would help deepen the understanding of Malone's early settlers, its role in national events such as the Revolutionary War and Abolition movement, and its industrial history.

As Malone has developed on the fringe along NYS Routes 11 and 30, the reuse of historic buildings has decreased as developers find it too costly to restore and maintain historic structures. As such, many of the historic buildings in downtown Malone remain unoccupied and will eventually fall into disrepair if left vacant. Loss of these buildings will leave gaps in the downtown landscape and the historic setting will be lost forever. Although these factories and mills were once the basis of Malone's economy, they are now closed and many create a less than pleasing visual image of the waterfront. However, some of these properties present unique and significant opportunities, such as the Horton Gristmill (listed on the National Register of Historic Places). The Malone Revitalization Foundation commissioned an engineering feasibility study on the Horton Gristmill. Despite the study's findings that the structure was in poor condition, the former gristmill and an adjacent slipper factory building are scheduled for reuse as commercial and residential properties.

The Village is planning to continue working with the New York State Office of Parks, Recreation and Historic Preservation to establish a local historic district, including appropriate boundaries and local standards for façade protection and provisions to prevent buildings from being torn down.

# C. HUMAN CULTURAL ENVIRONMENT

# 1. Demographics

# **Existing Conditions and Analysis**

The 2000 U.S. Census indicated that 14,981 people reside in the Town of Malone, including 6,075 people in the Village. Table II-2 details the demographic profile for Malone. It should be

noted the population of Town of Malone includes the 6,400 residents of the three New York State correctional facilities within Malone.

Population loss is a significant issue for both the Village and the Town. The Village sustained a loss of over 700 individuals over a ten-year period. Although the Town realized a population gain most of the gain can be attributed to the opening of the Upstate Correctional Facility, which was fully operational with 1,500 prisoners by August 1999. The community is coping with a declining youth population to take badly needed service jobs and an aging population of retired persons that will generate a need for increased services in the near future.

Municipality	2000	1990	Number Change	Percent Change
Village of Malone	6,075	6,777	-702	-10.4%
Town of Malone	8,906	6,205	2,701	30.4%
Town and Village Total	14,981	12,982	1,999	13.4%
Franklin County	51,134	46,540	4,594	9.0%

# Table II – 2 Population Change

# <u>Age and Race</u>

The median age in the Town of Malone is 35.7 years old and the median age in the Village is 40.4 years old. The two numbers fall in between the average median age for Franklin County, 36.3 year old. There are 634 children under the age of 5 years old in the Malone area, and 3,046 persons over the age of 65, numbers that are essential in planning future needs.

In terms of race, the majority of the Town is White, (73.6%), with the remaining population primarily Black (18.6%), and Hispanic, (11.2%). The majority of the Village is also White, (97.6%), and the remaining 2.4% of the population is Black, Hispanic, American Indian and Asian.

# <u>Housing</u>

The median housing value in the Town of Malone was \$58,000 in 2000 and \$53,000 in the Village, compared to \$62,600 for Franklin County. There are 4,644 total housing units in the Town and 88.6% of them are occupied. There are 2,847 total housing units in the Village and 90.7% of those units are occupied.

# 2. Land Use and Zoning

# **Existing Conditions and Analysis**

The Salmon River LWRP land use and zoning inventory and analysis is focused primarily on existing land use and development patterns in Malone's waterfront area. The Village Core has a traditional downtown pattern. Fortunately many of its original buildings remain intact and are an integral part of Malone's small town feel and pedestrian walkability. The general downtown area consists of Main Street as the core area of downtown and residential neighborhoods that radiate both north and south off of Main Street. The traditional character of Main Street shifts, however,

toward the western portion of the Town into a more suburban-style strip commercial development. This shift has had a negative impact on the business climate of Main Street.

# <u>Zoning</u>

The Town and Village completed and adopted the first and only master plan in 1971. The plan was prepared under a grant from the US Department of Housing and Urban Development under the Comprehensive Planning Assistance Program authorized by Section 701 of the Housing and Urban Development Act of 1954. See Figure II-1, Town Zoning and Figure II-2, Village Zoning.

Zoning in the Town of Malone was adopted by the Town Board in 1994, while the Village adopted zoning regulations in 2001 and is currently in the process of updating the regulations. The zoning ordinances establish use districts and regulate uses within these districts. The zoning ordinances also establish building setback and density requirements and regulate the bulk and arrangement of buildings, lot area coverage, off-street parking, access, drainage, accessory uses, fences and walls, lighting, screening and landscaping, and other similar issues typically addressed in zoning regulations.

The Village Zoning Ordinance divides the Village of Malone into the following zoning districts:

- R Residential District
- R-LB Residence-Limited Business District
- B General Business District
- C-I Commercial-Industrial District
- SP Scenic Preservation District
- PD Planned Development District

The Town Zoning Code divides the Town of Malone into the following districts:

- R Residential
- RS Residential Seasonal
- C Countryside
- PD Planned Development
- CG Commercial General
- OS Open Space

# Subdivision Regulations

The Town has Subdivision Regulations that were first adopted in 1995. The regulations require the submission of proposed subdivisions of land to the Town Planning Board for review and approval. The standards include provisions for street layout and design, lot dimensions, drainage, parks, open spaces and natural features, revegetation, streetlights, trees and signs.

The Village first adopted Subdivision Regulations in 1988. The Town of Malone Subdivision Regulations were first adopted in 1994 and revised in 2006. The regulations require the submission of proposed subdivisions of land to the Town/Village Planning Board for review and

approval. The standards include provisions for street layout and design, lot dimensions, drainage, parks, open spaces and natural features, revegetation, streetlights, trees and signs.

# Land Use

Table II-3 illustrates the Assessor's breakdown of tax parcels in the Town by property class code. The data is from the 2001 Real Property Assessment.

Tax Classification	Number of Parcels	Percent of Total
Community Service	84	1.6%
Residential	3299	61.6%
Commercial	381	7.1%
Public Service	62	1.2%
Agricultural	184	3.4%
Vacant Land	1267	23.6%
Recreational, Park and Forest	56	1.0%
Industrial	26	0.5%
Total	5359	100.0%

# Table II - 32001 Real Property Tax Classifications

Residential property is the largest land class in the Village and Town, followed by 23% of the land listed as vacant.

Existing uses along the shores of the Salmon River from Main Street to Pearl Street were inventoried for their land use and size to determine the potential for redevelopment. In summary, several of the properties along the banks of the Salmon River from East Main to Pearl Street have the potential for redevelopment. These include IBC, Inc. vacant property along Mill Street, the Horton Mill, and Tru-Stitch Warehouses. On the west side of Mill Street NYSDOT has a vacant commercial parcel. Properties along Duane Street and College Avenue between Pearl and Main Streets include vacant commercial parcels owned by the Village of Malone and a vacant warehouse.

# 3. Water Uses and Public Access

# Existing Conditions and Analysis

The Salmon River is generally shallow and rocky, which makes it ideal for fishing but unsuitable for navigation. The rural, undeveloped nature of much of the River corridor makes the River generally accessible, though officially permitted and formal access points are spread out and fairly limited in the Village Core area. Several NYSDEC Public Fishing Rights access points are located along the River and several municipally owned parks provide recreational access.

Within the Village Core, the River is currently blocked by the former industrial buildings that once relied on the River for its water power, as well as many residential structures that are within

the flood zone and present a hazard during the winter and spring months. The River itself has limitations for canoes, kayaks and tubing. Due to shallow water, only a few areas along the River are appropriate for these uses. This information may be evident to residents but visitors do not know locations of appropriate access and activities on the River.

Residents and visitors use the Salmon River for fishing, bird watching, picnicking, swimming and wading, hiking, and ice skating. Boating, particularly non-motorized, is feasible on the small lake areas behind the Chasm Falls Dam, Ballard Mill Dam and Lamica Lake. Regionally, the Salmon River is known for its trout habitat and several organized fishing tournaments are held throughout the year. See Figure II-3, Water Features.

# Analysis

The waterbodies of Malone provide residents and tourists alike with a resource rich in recreational activities. In order to promote the usage of the waterways, Malone should consider providing a greater number of access points and clearly signing areas where canoes, kayaking, and tubing are more appropriate.

# 4. Open Space and Public Recreational Resources

# Existing Conditions and Analysis

The New York State General Municipal Law defines open space as, "Any area characterized by natural beauty or, whose existing openness, natural condition or present state of use, if preserved, would enhance the present or potential values of abutting or surrounding development or would offer substantial conformance with the planning objectives of the municipality or would maintain or enhance the conservation of natural or scenic resources."

Malone has a unique balance of vast open space areas, which surround the built environment of the Village area. As the topography transitions from the northern border of the Adirondack Park, the landscape shifts from wooded, mountainous terrain, to wide open farm plains which characterize the northern portion of New York State. Both landscapes offer vast public and private open space resources for Malone. Using the definition above, the terms "open area" and "open space" can be considered one in the same, and Malone has both open areas due to its rural nature and preserved open areas that provide many passive and active recreational opportunities for Malone residents.

The inventory of recreational resources for the Town and Village of Malone consists of the public parks, public and private institutions, private recreation areas, private properties, and cemeteries. Several areas sit directly on the Salmon River, while others are not along the shoreline yet offer views of the River area and rolling landscape. The resources listed in the text below describe the open space areas, their size, and what opportunities each site offers.

# Chasm Falls Dam Impoundment-

This is a small lake area where the River is dammed at the northern end of the Salmon River. Lake area offers fishing opportunities and views of the waterfall below the dam.

# Chasm Falls FERC Site 7320-

Located south of the Chasm Falls Dam, the site is a public access area provided as part of the license agreement for the Chasm Falls dam. The area offers picnic tables and grills; however, it is in need of rehabilitation, brush and garbage removal.

# NYSDEC Public Fishing Rights-

Several areas exist along the River where NYSDEC has negotiated permanent easements with landowners for access to the River for fishing. These rights allow the public to walk to and along stream banks for the sole purpose of fishing. Several of the NYSDEC Public Fishing Rights areas do not offer parking areas, therefore requiring a user to park illegally or to walk a significant distance to access the fishing area. Little signage or other information is available to the public regarding the location of these areas, however, they appear to be well utilized.

# Titus Mountain Ski Area-

Privately owned ski area located seven miles south of the Village on Moon Valley Road. The mountain has an overall elevation of 1350 feet, and a vertical drop of 1200 feet. The ski area has 26 trails for beginning to expert level and also provides night skiing.

# Malone Fish and Game Club-

Private fish and game club that offers hunting opportunities, archery facilities and competitions during summer months. During the winter months, the club has approximately six miles of groomed cross-country trails that link to Titus Mountain, with equipment rentals available.



**Chasm Falls Impoundment** 



**Chasm Falls** 



**Titus Mountain** 

# Old Railroad Grade-

Former rail bed runs north south near the eastern side of the Salmon River. The rail bed is now used in the winter as a snowmobile trail. This abandoned line is primarily owned by CSX, a major rail company based in Florida. Several private parties have ownership of small sections of the rail bed and it is possible that CSX may be opening the line to other potential buyers.



**Bill King Memorial Park** 

# Bill King Memorial Park-

Located south of the hamlet of Whippleville, the park was a gift from the previous owner, Niagara Mohawk. The site features picnic tables, fire pits, and outhouses. However, most of the amenities have fallen into disrepair or have been vandalized. The site is heavily wooded and offers several access points to the River.

# Whippleville Bridge-

The Whippleville Bridge is located at the

intersection of River Road and Low Road. Fishing opportunities exist below the bridge.

# Malone Country Club-

Located on Golf Course Road off of Duane Street, the Malone Country Club is a semi-private golf course with 36 holes.



# **Memorial Park**

# Memorial Park-

Located on the corner of East Main Street and Elm Street is a small triangular area featuring two monuments, a fountain, and various ornamental plantings.

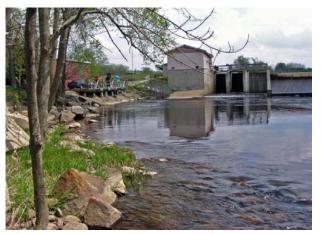
# Memorial Recreation Park-

Located on Duane Street, the Memorial Recreation Park encompasses over 100 acres and provides many different recreational opportunities. The park features a large pond that is used for swimming, paddleboats and a canoe launch. Additionally, there is a trail system, handball wall, playing fields,

basketball and tennis courts, picnic pavilions, grills, and a dog walk park. The Park is also home to the Malone Ice Rink, a community based ice rink owned by the Village and operated as a non-profit. The rink hosts the local junior hockey team, as well as several hockey tournaments throughout the year.

#### North Country Community College (NCCC)-

Part of the State University of New York (SUNY) system, the Malone Campus of NCCC is located at the site of the former Ballard Mill along the Salmon River. In addition to classrooms, laboratories and a teleconferencing center, the site offers passive uses such as walking, sightseeing and fishing.



**Ballard Dam** 



**Children's Fishing Pond** 

# Greater Malone YMCA-

#### Franklin County Fairgrounds-

Located off of NYS Route 11, the Franklin County Fair runs the first week in August.

#### Arsenal Green-

Located off Elm Street, Arsenal Green is a community green with an attractive lawn and mature trees. Band concerts are held in the summer months.

# Pearl Street Bridge-

This is a newly completed bridge rehabilitation

project. The area surrounding the bridge features a cleared area that provides parking for those looking to access the River for fishing.

#### Franklin Academy-

This resource is located on Husky Lane. The high school has a cleared River area with benches and a platform overlooking the River. Currently art classes are held along the Riverfront.

# Children's Fishing Pond-

Located adjacent to the Village DPW garage on College Ave, the fishing pond is used for passive recreation and fishing.

Located at the former armory, this full service YMCA offers a newly refurbished gymnasium, free weight room, complete Nautilus 2St Circuit, a full range of cardiovascular equipment, game room, aerobic studio, computer/homework room, golf simulator and daycare area.

#### Main Street/Mill Street-

This is a Village-owned property on the west side of the River south of Main Street. This area is currently vacant, but envisioned for a park with an amphitheatre for concerts and events.

#### Lower Park Street-

A parking area and River access site for fishing exists at this location.

#### Brand Road/Lamica Lake-

Located in the northern end of the Town, Lamica Lake is the 16.5-acre impoundment behind the Macomb Dam. As part of the damrelicensing process for Brookfield Power (owner of current dam), an enhancement project was completed that includes a new recreational trail and improved boat launch. Brown bullhead fishing is the most popular fishing activity; however sand bar formation is presently impeding access to many sections of the lake.



#### Macomb Dam-

The Macomb Dam area provides dramatic views of waterfalls and deep gorges.

Lamica Lake

#### Analysis

The open spaces of Malone create a community of scenic beauty and special places for recreation. In order to protect these valuable resources and expand upon them, Malone should consider investigating the opportunities presented above, as well as providing ongoing maintenance and management of existing open spaces.

# 5. Transportation and Parking

# Existing Conditions and Analysis

Vehicular travel is essentially the only mode of travel in the Malone region. A network of U.S., New York State, Franklin County and Town of Malone roads serve the Town and Village of Malone. The following list is the major roadways in Malone:

U.S. Route 11 - Two lane highway travels east west from Kirkwood, NY (near Pennsylvania) to Rouses Point, NY.

NY State Route 11B - Alternative route between the Village of Malone and Potsdam. This two-lane arterial highway runs parallel and south of US Route 11.

NY State Route 30 - Runs north-south direction from Johnston to Malone. This designated National Scenic Byway is also known as the Adirondack Trail.

NY State Route 37 - Runs east-west, travels from Watertown to Malone. This two-lane arterial highway is located in the northwest corner of the Village and the Town. Route 37 is a National Scenic Byway, known as the Military Trail. It was once the travel route for colonial military troops and supplies.

There are 21.5 miles of Franklin County roads in the Town, including Fay Road, South Burke Road, Brainardsville Road, Chasm Falls Road, Pond Highway, Town Line Road, Fayett Road, and Creighton Road. There are 100 miles of Town highway throughout the Town, which serve as collectors that provide access to the rural portions of the Town. There are 27.7 miles of street in the Village of Malone that also serve as collector streets for residential and commercial traffic. This level of local control over the roadways is beneficial because the municipalities have greater ability to manage the roads in the best interest of the community, but it also is an expensive responsibility to provide this service.

With the exception of the Village area, Malone is primarily an auto dependent community due to its rural nature. Most buildings in the Village rely on on-street parking along Main Street and the side streets or in some instances rear parking lots. All facilities within the Town offer off-street parking. While the traffic in the Village can be inconvenient at times, Main Street serves as a major regional thoroughfare bringing significant numbers of visitors to the community, who in turn spend time and money in the community.

Public parking lots are located at Overlook Park, at the corner of Duane Street and Harrison Place; at the Village Hall on the north side of Elm Street; and between East Main Street and Elm Street. The lot on the corner of Duane Street and Harrison Place has an area devoted to a future skateboard park, however, this project has not been approved by the Village Board.

In addition to vehicular access, the Franklin County Public Transportation System provides access to public transit in Malone. Three routes currently serve the Malone area including the Malone Shuttle South, the Malone Shuttle North and the Malone Auxiliary route. This service is available for shopping, employment, medical, educational and miscellaneous needs.

# 6. Public Utilities

# **Existing Conditions and Analysis**

# Water Supply

The source of potable water for both Village and Town residents until recently was Horse Brook Springs located at Chasm Falls. Transmission is made to the Village Reservoir located just east of Memorial Park. A \$4.65 million project was approved in 2005 to develop a new water supply source for the Village of Malone. Two new groundwater wells, located on Village property in Chasm Falls, have been installed. The new wells, rated at 2.88 million gallons per day, will replace the existing spring source of supply (open reservoir and supply intake). The existing source will be abandoned. The project was completed in July 2008 and included the installation of approximately 6,000 lineal feet of new transmission water main, construction of a new 3 million gallon water tank at the Pinnacle, and construction of a new treatment plant at Chasm Falls. There is no Town water supply.

# Sewage Treatment

All of the Village of Malone is serviced with sanitary sewers, which connect by gravity flow to the sewage treatment plant. The sewage treatment plant underwent a \$4.5 million expansion in 1999 to accommodate new correctional facilities. There are no existing capacity issues related to the sewage treatment plant and there are no planned improvements to the facility. However, Malone's Municipal Sewage Treatment Plant is in need of upgrading to eliminate combined stormwater out flows that are potential point sources of pollution into the Salmon River.

# Solid Waste

Solid waste disposal is serviced through a transfer facility on Brand Road. Solid waste is presently managed by Franklin County Solid Waste Management. Solid waste is transported from the transfer station to the landfill in Westville.

# 6. Local Economic Conditions

# Existing Conditions

# Economic Base

Malone's economic base is rooted in agriculture, tourism, government, manufacturing, health care and retail. Malone's economic centerpiece is its role as the County seat for Franklin County. Another significant source of employment in recent years includes the five state correctional facilities in Franklin County, three of which are located directly in the Town of Malone.

Tourism is an industry that is largely under-captured in the region. The Northern New York Travel and Tourism Research Center has created statistical tourism "profiles" for each of the ten counties in northern New York. These profiles use several potential indicator categories of information to provide users with a statistical view of the tourism industry in each county and its effects on the local economy. It reports that the 9 establishments offering 192 rooms on a year round basis represent approximately 20 percent of the total rooms in the county. Another lodging establishment is currently being constructed along Malone's major thoroughfare.

Annual fishing licenses sold in the county are down from 7,354 in 1991 to 4,980. However, the Salmon River remains to be a nationally recognized fishery resource providing tourist opportunities for current and future water based recreation. Snowmobiling registrations on the county's 250 miles of trails have grown 51 percent from 1,238 in 1995 to 2,517 in 2001.

To boost tourism opportunities, especially heritage and environmental tourism, New York State and the Federal Highway Administration have designated specific travel corridors known as Scenic Byways. These roads are representative of the region's scenic, recreational, cultural, natural, and archeological significance. Malone is part of the Adirondack Trail, a 188-mile route along Route 30 that connects Fonda in Montgomery County to the Town of Malone. The Military Byway (Route 190), once a transit route for colonial troops and supplies, is an 84-mile byway connecting Malone to Ogdensburg in St Lawrence County. The Scenic Byway program is designed to give exposure to the more isolated rural hamlets and to connect their communities and market their particular local offerings as part of the full range of experiences and opportunities of visiting New York State. As new or repeat visitors move from locale to locale along the route while exploring the Byway's resources, the various towns, villages and cities can use their Byway connection to benefit from the visitor spending. Adirondack Trail Scenic Byway communities need to be made aware not only of the program's ability to draw visitors, but also how to best position themselves to utilize this asset to encourage more local visitation and overnighters and support new sustainable business development. North Country communities depend on tourist spending generated by those who visit these unique places.

The count of seasonal residences represents a very significant portion of the assessment roles. They account for one out of seven (14.3%) homes in Franklin County (the NYS average is 3.1%), and are important from a business and marketing point of view.

# Personal Income

Per capita personal income was last reported for Franklin County in 2004 and demonstrates that the county ranks 61 out of 62 counties statewide with a figure of \$21,318. This is a significantly lower ranking than the previous year when it was at number 21. Per capita personal income for all of New York was \$38,264 in 2004. Per capita spending is 61 percent of the state average, however, per capita spending is 1 percent higher than the state average for the key tourism sensitive line items of food and beverage sales and 5 percent higher in gasoline sales.

# Labor Force

There were 22,500 persons in the workforce in Franklin County in October 2006 (NYS DOL). All but 1,000 individuals were employed, which represents an unemployment rate of 4.4 percent. The unemployment rate has shifted slightly lower from 4.9 percent from October 2005. Of the 26 upstate counties not located within major labor areas, Franklin County held the third highest unemployment rate. Franklin County's rate was also higher than the New York State and national rates, which were both 3.8 for the same time period.

# Community Finances

The ability of Malone to grow is largely determined by its economic assets. The economic assets available become the main limiting factor on investment made in the community. The assessed value of property provides the first estimate of wealth. For the tax levy year 2005, the taxable assessed value was just over \$277 million. Equalization has been consistent between 100 percent in 1990 and 93 percent in 2006. Tax rates are \$7.52 per thousand dollars of assessed value for the combined county/town rate plus \$22.54 per thousand for the school rate. Real property tax rates increased 10.59 percent or 72 cents over the prior year in the Village and 10.79 percent or by 72 cents in the Town.

The NYS Office of Real Property Services reported residential home sales in all of Franklin County increased from a total of 419 sales with a median sales point of \$65,000 in 2003, to a

total of 516 sales with a median sales point of \$70,950 in 2005. This compares with the lowest median in Allegany County at \$50,000 and the high of \$620,000 in Westchester County.

#### Business and Industry

The Malone Chamber of Commerce is the primary organization that guides and coordinates business interests in Malone. The objective of the Malone Chamber of Commerce is to draw its membership from as diverse a background as possible in order to unite the workforce and stimulate the highest amount of economic activity. The Chamber coordinates community wide events as well as acts as a liaison between the community and community interest, offering assistance to those within reach whenever possible. The primary goal of the Chamber's Volunteer Membership is to raise the quality of life in the Greater Malone Community. The following main cultural and recreational assets drive the local economy towards tourism: a 36hole Championship Golf Course, the Akwesasne Museum, House of History, the Almanzo Wilder Homestead, Arsenal Green Park, the Chateaugay Fish Hatchery, the Franklin County Fair, Franklin County Historical Museum, Malone Memorial Recreational Park, Northern New York Agricultural Fair, the Market Barn, and Titus Mountain Ski Area.

Business and industry is provided a powerful incentive through the Franklin County Empire Zones Program. The 2006 approved Empire Zone encompasses a total of 512 acres (See Figure II-4). The entire downtown business district is contained in the Empire Zone, as is the County 11 corridor and down Main Street to Sawyer Street. It extends north along Brewster and Union and south on College Avenue to Pearl Street. The Town of Malone Industrial Park accounts for 50 acres. To receive Empire Zone benefits, businesses must first be located in an empire zone, or qualify as a regionally significant project. To qualify for certification, a business must be able to demonstrate that it will create new jobs and/or make investments in the Empire Zone and be consistent with the local zone's development plan.

# Analysis

The local business climate is difficult and is in need of a boost on many fronts, most significantly downtown revitalization and tourism efforts. The stimulation of small business development was also addressed in the *Six Themes and Planning Principles* document prepared by the community and a consultant in 2002. The main issues that were identified in the document were:

- Thin job market
- Not enough private enterprise
- Few retail operations
- Few big businesses
- Unskilled workforce
- Premier tourism destination
- Room for full service industrial park
- Declining small business base
- Low technological infrastructure and training

The Scenic Byway program, in addition to the LWRP, is a strong partner for tourism development through enhancing economic development opportunities. The program stresses that there are new tourism related businesses that entrepreneurs should prepare for in the very near future. These include adventure and nature-based tourism, and mountain-based sport related travel, health, tranquility and relaxation businesses. Economic development efforts generated in the community should focus on elements of these types of businesses. The Byway program recommendations for improving the climate for businesses include:

- Improve existing businesses
  - Encourage local business owners to make upgrades
  - Improve the attractiveness of resorts, lodges, stores and facilities
  - Encourage communities to maintain and improve streetscapes
  - o Offer an attractive aesthetically pleasing destination for visitors
  - Instruct businesses in how to offer the best quality of service
  - Train service personnel to improve skills in dealing with the public
  - Maintain a level of professionalism and positive attitude
- Provide business leadership and offer administrative training to local entrepreneurs including technical assistance, business consulting services and technology training.
- Enlist services offered by Colleges and Universities for those seeking business planning assistance.
- Offer tourism planning.
- Educate entrepreneurs about Empire Zones and other incentives.
- Provide financial assistance, and investment capital.
- Circulate current lists of granting sources and alternative funding sources.
- Work with communities on monitoring infrastructure conditions of water, sewer, and sidewalks and encourage them to evaluate, maintain, improve and plan for necessary future upgrades.
- Support technology upgrades that will meet the demands of today's travelers including e-communications, cellular connections, digital communications projects and wireless networks.
- Stimulate tourism development by improving community awareness of the economic impact of tourism dollars.

Using the Scenic Byway program's recommendations and the key issues identified in the 2002 Planning Principles report, this LWRP will propose a number of strategies for spurring economic development and reinvigorating the local business community in Malone.

# D. NATURAL RESOURCES

# 1. Physical Resources

# **Existing Conditions and Analysis**

# <u>Climate</u>

Malone is located at 44° 51'N latitude and 74° 18' W longitude at an elevation of about 700 feet above sea level. This region of New York is characterized by a cool, humid continental climate, with relatively short, cool summers and long, cold winters. Northern New York, along the St.

Lawrence River, is characterized by January mean temperatures below 20° Fahrenheit and July mean temperatures of 69° Fahrenheit. Between 135 and 155 frost-free days occur each year. Average precipitation is approximately 37 inches of rain, and 106 inches of snow (USDA).

# <u>Topography</u>

The upper part of the Salmon River, in southern Franklin County, is a rugged mountainous area. As the River flows north, it approaches the relatively flat St. Lawrence Valley Plain in the lower watershed between Malone and the Canadian border. Between Malone and Ft. Covington, a distance of 14 miles, the elevation drops from 700 feet above sea level to 180 feet. Numerous lakes and ponds flow into the River in the upper, mountainous region. As the River approaches the relatively flat area of the lower watershed, a number of large tributaries flow into it, such as the Little Salmon River.

# <u>Geology</u>

The sharp contrast between the lowlands of the St. Lawrence River and the Adirondack Mountains is a result of the parent geology. In general, both surface and groundwater flow to the northwest into Canada and the St. Lawrence River.

The predominant bedrock in the Malone area is Potsdam sandstone. Exposures of the sandstone are visible in the Salmon River gorge within the Village. The stratified layering of sandstone allows for both lateral and longitudinal groundwater flows.

# <u>Soils</u>

Information about soil composition and characteristics is extremely useful in making land use decisions, such as determining suitability for septic systems and development. The soils in the WRA boundary area developed from glaciofluvial deposits of till and outwash, and are derived from Potsdam sandstone and granitic gneiss. Other soils such as those developed from glaciolacustrine silts and fine sands, and recent alluvium soils associated with stream channels, are derived from Potsdam sandstone and granitic crystalline rock (USDA Soil Conservation Service 1958).

Soils that developed in glacial outwash deposits tend to be comprised of sand and gravelly loam, and are well drained. The soils in the Malone area are typical of this tendency: they are sandy, and have high leachate and runoff potential. These soils also are very susceptible to erosion by wind and water forces. Many of the soil series map units as shown on the 1958 USDA Soil Maps are described as "eroded." However, today, coniferous trees and native grasses inhabit most of these "eroded" areas, including previously cleared forestland. With the establishment of vegetative cover, highly erodable areas may have become stabilized.

# Seismicity

The Malone LWRP is located within the Western Quebec-Adirondacks seismic zone and is also influenced by the Charlevoix-Lower St. Lawrence and Western Massachusetts seismic zones. The site is located in an area of moderate seismic activity characterized by small to moderate

magnitude events and occasional moderately large shocks. On April 20, 2002, an earthquake measuring 5.1 on the Richter scale occurred in the area, breaking windows, cracking plaster and foundations, and toppling items from shelves. Several sections of NYS Rt. 9N collapsed in the Town of AuSable Forks, which was the epicenter of the quake. Other prominent earthquakes in this zone in the past 100 years include the Timiskaming Quake in 1935, with a magnitude of 6.2; the Cornwall, Ontario Quake in 1944, with a magnitude of 5.6; and the Blue Mountain Lake Quake in 1983, with a magnitude of 5.1 (USGS National Earthquake Information Center 2002).

# Analysis

Development along the Salmon River would likely cause additional sedimentation due to the lack of stable soils in some areas. These conditions promote the need for a buffer between the River and any future development. Additionally the topography (steep banks) and seismic activity in the area presents development constraints in many areas of the WRA boundary. The constraints these conditions impose must be taken into account when any new development is considered for the area.

# 2. Water Resources and Water Quality

# Existing Conditions and Analysis

The Salmon River originates in the foothills of the Adirondack Mountains in southern Franklin County, New York at an elevation of approximately 2,000 feet. The River flows northwest about 50 miles through Franklin County, through the Town and Village of Malone, and drains into the St. Lawrence River in Dundee, Quebec. The Salmon River watershed measures approximately 380 square miles, all within Franklin County. Flooding on the River occurs primarily between mid-March and mid-May, and is usually the result of sudden and severe snowmelts, or periodic ice jams that form during periods of extremely cold weather.

The Salmon River runs through a variety of landscapes, including farmland, the Adirondack Mountains, valley settings, former industrial facilities and residential areas. The River's diversity- dams, deep ponds, rapids, rocky outcrops and steep, wooded banks- potentially offer many excellent scenic and recreational opportunities. However, limited access prohibits full development of these opportunities.

There are five dams currently located on the Salmon River:

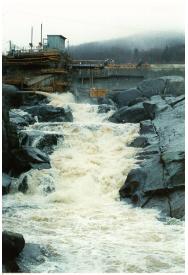
 Macomb dam- within the proposed WRA boundary; downstream from the Village of Malone; hydroelectric dam.

Whittlesey dam- within the proposed WRA boundary; Village of Malone; hydroelectric dam, run-of-river (low head) operation.

- Ballards Mill dam- within the proposed WRA boundary; Village of Malone; hydroelectric dam, run-of-river (low head) operation.
- Chasm Falls Hydropower dam- within the proposed WRA boundary; upstream from Village of Malone.

 Mountain View Lake dam- outside of the WRA boundary; upstream from Chasm Falls; privately owned and operated in Salmon River headwaters; for recreational use; represents the only significant water storage in the watershed.

The five dams along the River (four of which are within the study area), limit navigable access and have a profound impact on the River ecosystem. Even the small dams have an impact on the aquatic environment, limiting fish passageways and unnaturally holding sediments in the River basin. Impoundments create an artificial area of flooding and floodways. The process of dam removal requires many studies on the impact of dam removal, including a study of bathymetric data, channel characteristics, geology including sediment characteristics and quality, a hydraulic analysis and an alternative analysis. This may not be feasible for the portion of the Salmon River within the Town and Village, however, it should be noted that dam removal has been identified as a means of River restoration and management.



The Salmon River is included in an inventory of waterbodies throughout the state. The purpose of this Priority Waterbody List (PWL) is to keep a record of waterbodies with water quality

**Chasm Falls** 

problems. This list is updated and managed by NYSDEC. Their most recent inventory concluded that portions of the Salmon River have water quality problems as a result of sedimentation discharged from the Chasm Falls Dam and the Macomb Dam. More information about impacts the Salmon River fishery from sedimentation can be found in Soils and Sedimentation (3) in this section.

Other water resources in the WRA include Lamica Lake, Rotary Lake (pond in Memorial Recreation Park), Children's Fishing Pond, Lake Titus and Branch Brook.

Lamica Lake, located in the northern end of the Town, is the 16.5-acre impoundment behind the Macomb Dam. Lamica Lake is generally accessed by fisherman utilizing small boats. Due to the buildup of sand and sediment deposits from dam releases, there are navigability issues in some areas. A part of the now closed Malone landfill borders the western shore of Lamica Lake. Long-term water quality testing is necessary to determine the overall water quality trends. Based on NYSDEC's Environmental Site Remediation Database and the Spill Incidents Database the old Malone landfill currently is causing no groundwater problems, however, the landfill is currently on the "suspect" toxic waste site list. Testing of the bottom sediment and water has been completed by NYSDEC. Coal tar deposits from a coal gasification plant that closed over 50 years ago are still evident in the sediment.

Children's Fishing Pond is located on College Ave, adjacent to the Village DPW garage. This pond is another impoundment area that is exclusively reserved for children and senior residents for passive recreation and fishing.

Lake Titus is a private lake located approximately 10 miles south of the Village of Malone along the southern boundary of the Town of Malone. Located within the St. Lawrence River Basin, Lake Titus is 435 acres and is classified by DEC as B (T), suitable for all recreational activities and supports a trout fishery. This lake is not a suitable source as a water supply. Although NYSDEC owns a small lakefront parcel, there is no formal public access. Water quality testing has been conducted by the local lake association through the NYSDEC Citizens Statewide Lake Assessment Program (CSLAP) and consultants, Adirondack Ecologists, since the mid 1980's. Issues that have been identified include the presence and proliferation of Eurasian watermilfoil and failing on-site septic systems.

Lake Titus drains into Branch Brook (formerly known as Lake Titus Stream), carries a stream classification of B, C. The brook drains into Rotary Lake, the Children's Fishing Pond, terminating in the Salmon River. Branch Brook generally follows Route 30 north passing through highly rural undeveloped areas, agricultural areas, and large wetlands.

# Analysis

Given the importance of Malone's water resources to its identity and for recreational purposes, the Village and Town should consider strengthening control over the levels of sedimentation resulting from features such as dams and roadway deterioration in order to reduce water body contamination levels.

# 3. Wetlands

# Existing Conditions and Analysis

Wetlands are vital to the environment. Wetlands serve as natural erosion and flood control measures, provide groundwater recharge, filter pollutants and nutrients and support a wildlife habitat.

Wetland vegetation along the Salmon River is primarily confined to narrow bands immediately adjacent to the River. Vegetated wetlands within the majority of the WRA Boundary are relatively limited in size and abundance. This is due to the steep sided valley and banks along which the boundary is located. Wetlands do occur in scattered locations along the banks of the Salmon River and associated surface waters throughout the area.

Wetlands occur in scattered locations along the banks of the Salmon River and associated surface waters throughout the region. In general, there are four types of wetlands found in the Malone area: 1) palustrine forested (PFO) wetlands; 2) palustrine scrub-shrub (PSS) wetlands; 3) palustrine emergent (PEM) wetlands, and 4) palustrine unconsolidated bottom (PUB) (vegetated or unvegetated) (NWI, 2004). Specifically, DEC wetlands are primarily located south of the Village of Malone in tributaries associated with Branch Brook. An additional wetland is located near Teboville and just north of the Village and east of the railroad tracks. Federal wetlands appear along the Salmon River and parts of Branch Brook.

Terrestrial vegetation in the developed sections along the Salmon River is severely modified and limited due to the intense commercial, vacant industrial and residential land uses. Along the riverbanks, vegetation is generally restricted to sparse undergrowths or herbaceous and woody plants, and grasses. Pockets of deciduous and coniferous trees and brush overgrowth characterize less developed areas. Both the U.S. Fish and Wildlife Service and the New York State Department of Environmental Conservation have no record of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats in the immediate vicinity of Malone.

The Adirondack Park Invasive Plant Program (APIPP) is concerned about the threat of various invasive terrestrial and aquatic species throughout the region. The organization is currently funded and supported by a variety of partners and seeks to inventory, map, monitor and eradicate infestations both directly and through public education and outreach. Invasive species have the potential to become a significant threat to biodiversity and to recreation. Invasives identified in the Salmon River corridor include the Common Reed (*Phragmites australis*), Purple Loosestrife (*Lythrum salicaria*), Garlic Mustard (*Alliaria petiolata*), Japanese Knotweed (*Polygonum cuspidatum*), and Pale Swallow-wort (Cyanchum rossicum). Pale Swallow-wort is a very aggressive viney species which is now dominating the banks of the river from the West Street Bridge to Lamica Lake.

# Analysis

In order to reduce the levels of erosion throughout the water bodies of Malone and reduce the impacts of waterway flooding, the Town and Village should continue to support existing DEC guidelines and regulations of the wetlands surrounding important bodies of water. Vegetation, especially along stream and riverbanks provides a wide variety of benefits to the local ecosystem, including bank stabilization, wildlife habitat and shade. Retention and restoration of the vegetation along the Salmon River is desirable and should be supported by both the Town and Village of Malone. In addition, the Town and Village will continue to support the efforts of the Adirondack Park Invasive Plant Program (APIPP) in order to combat invasive species throughout its wetlands and waterbodies.

# 4. Stormwater Runoff

# Existing Conditions and Analysis

Water quality issues within the WRA boundary area include: stormwater runoff from non-point source pollution and from point sources; the need for control over erosion and sediment; and protection of trout habitat in the River. Point source pollution is pollution that comes from a specific, identified source such as industrial waste or sewage that is directly discharged into the River. Non-point source pollution, unlike pollution from industrial and sewage treatment plants, comes from many diffuse sources. Non-point source pollution may be caused when rainfall or snowmelt moves over the ground, picks up and carries away natural and human-made pollutants, depositing them into adjacent water bodies and underground sources of drinking water.

Sources of stormwater runoff and water pollution may include agricultural runoff, septic systems, diffuse urban runoff, land disposal areas, and household hazardous waste disposal. Agricultural application of manure and inorganic fertilizers, silage runoff and other non-point source pollution as well as inadequate sewage disposal systems contribute to the surface water nitrate problems.

Several municipal storm drains empty directly into the Salmon River. Those include the following:

- Pearl Street and College Avenue
- Duane Street behind Huck's
- Behind Villa Fiore
- Catherine Street behind TruStitch
- 43 Howard Avenue behind House
- LaFayette Street by Mrs. Gervais
- Willow Street Bridge
- Park Street Brook
- Charles Street
- Fifth Street
- Cedar Street
- Elbow Street and College Avenue by Glazier's

These storm drains collect stormwater and drain into the Salmon River without the benefit of treatment. The sources of this urban runoff are from road surface breakup, motor vehicle fuels and lubricants, atmospheric fallout, vegetation, spills, litter, sediment and construction site debris.

Lamica Lake, the Macomb Dam impoundment, is a catchment for most polluting materials generated by Malone residents and businesses. Petroleum products, common urban runoff from parking lots and roadways, have been identified in River sediment throughout the boundary area. Excessive nutrient run off and lack of shading and cover over the River and tributaries are causing excessive weed growth, which in turn causes the degradation of fish reproductive areas. The 1998 draft Fisheries Management Plan identified the stretch of the Salmon River from Macomb Lake Dam to Ballard's Mill Dam as having been the site of discharge of industrial and mill effluent over the last 100 years, but water quality has improved due to the closure of many of those industries and sewage treatment upgrades. The Malone municipal waste water treatment facility discharges into the Salmon River and much of the old Malone land fill borders much of the western shore of Lamica Lake.

In 1990 reports of a fish disease outbreak tested much of the waters surrounding Lamica Lake and a number of chemicals and heavy metals were reported in the water. Many of the chemicals reported were not likely linked to the landfill, but rather were byproducts of coal gasification, petroleum contamination, and asphalt deterioration. Until recently, a coal gasification plant operated in Malone. These plants were a major source of air and water pollution. The close proximity of several roads to Lamica Lake can attribute to the presence of deteriorated asphalt and leakage of petroleum products is a common pollutant found near roads. Although these have been found to be present in Lamica Lake and the nearby sections of River, testing in 1991 indicated that these contaminants are not accumulating in fish flesh and do not exceed ordinary values for Adirondack soils.

Heavy fertilizer use, high wind and wave erosion of cropland, and stream bank erosion upstream are potential sources of nutrients and sediment in Branch Brook. The fact that Branch Brook weaves across Route 30 several times leaves it vulnerable to contamination from stormwater runoff. No water quality information is available on Branch Brook. The lack of information about these water resources is significant since they have the potential to impact the Malone's fishery resources.

# Analysis

In order to mitigate the effects of point and non-point source stormwater runoff into local water resources, Malone will consider strengthening control over the numerous areas of uncontrolled or untreated runoff, as well as control over erosion issues.

# 5. Soils and Sedimentation

# **Existing Conditions and Analysis**

Sandy soils are predominant in the Salmon River watershed. As a result, soil erosion is a major surface water concern within the WRA area. Road bank and stream bank erosion cause silt and sediment buildup in the River, threaten fish propagation and survival and destroy habitat. One of the main environmental problems in the Salmon River is the build-up of sediment behind the dams. Sand plays an important role in the sediment regime and energy budget of the Salmon River, as holding back sand can create an energy shift within the River that may cause adverse effects on habitat and water quality over time. Sediment accumulation can force a stream to shift flow direction, causing stream bank erosion, destabilization and water quality issues. In the short term, sand accumulation in the dam impoundments followed by an uncontrolled release can have immediate and serious affects on habitat and water quality, as has happened in the Salmon.

The sand in the Salmon River is coarse, silica-based sand that moves easily through the system. Fortunately, silica compounds are not chemically "attractive" to carbon-based contaminants and nutrients. However, these contaminants are "attractive" to organic materials that are being transported downstream as part of the natural stream corridor process.

In rivers and streams such as the Salmon River, the level of embeddedness of the substrate substantially affects the reproductive success of fish and invertebrates. "Embeddedness" refers to the abundance of sands and sediment in the substrate of a stream. In a stream that is not embedded, fish and invertebrates shelter, rest and spawn in the crevices between and under rocks. In an embedded stream, substrate sands fill the crevices, excluding fish and invertebrates and reducing survival over winters and reproduction.

In response to a series of floods in 2002 and 2003, which caused the evacuation of many homes on Lower Park Street, a local flood protection plan was undertaken by several agencies. The inspection team included the Village and Town of Malone, U.S. Army Corps of Engineers (USACE), New York State Department of Environmental Conservation (NYSDEC), Franklin County Emergency Services (FCES), and the New York State Regional Office of the Federal Energy Regulatory Commission (FERC). The flood inspection examined 3-miles of the Salmon River from the dam upstream at the Willow Street Bridge (near Ballard's Mill Dam), to the Cady Road Bridge (near Macomb Dam). The inspection concluded that the portion of the River in the Town is in such poor condition that it does not allow for the passage of ice flows and is therefore prone to ice jams and flooding. Also, major sand bars and islands have been increased over the past few years, limiting the channel-way and reducing water velocity. In terms of the Village portion of the Flood Inspection Project, no major deficiencies were noted, however a lack of maintenance has allowed minor problems to remain.

DEC staff measured embeddedness in the Salmon River in 1995 to provide baseline data for habitat study. In 1997, high amounts of sediment were released into the River during repair and refurbishment of the Chasm Falls Hydroelectric Dam, ten miles south of Malone. An estimated 14,400 cubic yards of sediment was released and embeddedness in approximately six miles of impacted River rose from an average of 15%, as recorded in 1995, to 75% by November 1997 (Schoch). As a result, the trout spawning grounds were damaged. Because the trout population has a significant recreational and economic value, solutions to the sediment problems need to be explored.

Analysis of Malone's physical, biological and environmental resources along the Salmon River brings to light the many features that need to be accounted for when developing plans and policies for the revitalization of the waterfront area.

Erosion is a serious issue in the area because of the loss of soil and vegetation, and increased sedimentation in the Salmon River. The high level of silt and sediments contribute to the loss of trout and other fish habitat, and increase ice jams and related flooding on Lower Park Street. The 2004 Flood Protection Project identified dredging as a possible solution to the flooding problem. Unless the source of the sedimentation is identified and mediated, this problem will reoccur and shoal-formed island will continue to build up.

# Analysis

Erosion and sedimentation greatly impact the water bodies in and around Malone. In order to protect the recreational opportunities and natural features of these waterways, Malone should consider strengthening control over sources of sedimentation, including features such as dams and roadway deterioration, and causes of erosion.

# 6. Fish and Wildlife

a. Fish

# Existing Conditions and Analysis

The Salmon River does not have any designated Significant Coastal Fish and Wildlife Habitats identified by either the NYSDEC or the NYSDOS. It is, however, well known for its significant fisheries resources and as a fly-fishing destination. The River is a natural trout habitat and

supports a rainbow brook and brown trout population. Fish populations are strong throughout the River due to DEC's stocking program in addition to naturally reproducing trout. Historically, the best trout fishery was in the reach immediately downstream of Chasm Falls. Today, the best trout fishery appears to occur downstream of the Macomb project. However, large trout are prevalent throughout the River, and five-pound brown trout have been caught in downtown Malone. The Salmon River once supported runs of Atlantic salmon, and possibly sturgeon, as well as freshwater runs of walleye, northern pike and muskellunge.



Stream Backpack Fish Stocking in the Salmon River

The stocking of Brown Trout, Brook Trout and Rainbow Trout is conducted on an annual basis by NYSDEC with assistance from the County Federated Sportsmen. Table II-1 reports the anticipated number of yearling and older trout introduced to the Salmon River during Spring 2006. The stocking numbers represent recommendations from the Fisheries Management Plan for the Salmon River (March 2000).

Stream corridor management is essential for the health of the fishery. Stress on trout fisheries is attributed to a number of factors. Water temperature is one important factor. Lack of shade cover over streams, causes water temperatures to increase, thereby stressing cold water stream fish. Another stress factor is soil erosion and sediment buildup, or "embeddedness" in streams. This slows water flow, which smothers trout spawning areas and inhibits propagation. Trout bury their eggs in gravelly streambeds. Eggs incubate as water flows through the gravel, supplying the eggs with oxygen. Sand and sediment build up restrict water flow, causing the eggs to suffocate.

<u>Waterbody</u>	Brown Trout	Brook Trout	Rainbow Trout
Salmon River	12,090 - 8.5"	-	8,100 - 8.5"
	1,300 – 12.5"	-	-
	9,760 – 8.5"	-	-
Children's	80 - 8.5"	100 - 8.5"	-
Fishing Pond			
	90 – 13"	-	-
Branch Brook	Occasional	Occasional	-
	stocking	stocking	

Table II - 12006 Trout Stocking Targets

Another threat to the Salmon River fishery is Viral Hemorrhagic Septicemia (VHS). The first documentation of VHS in the Great Lakes Region occurred in Lake Ontario in 2005. VHS is a serious pathogen that affects fresh and saltwater fish. It can cause hemorrhaging of fish tissue, including internal organs, and can cause the death of infected fish. Once a fish is infected with VHS, there is no known cure. The virus can affect fish of all sizes while posing no threat to human health.

As with many other viruses VHS can be spread from one waterbody to the next by moving fish from one waterbody to another. This can be done by importation, stocking, or the use of infected bait fish. Other ways that VHS can be spread through waterbodies are natural fish movements, recreational boating/angling, bird assistance, ballast water discharge, and sampling activities. VHS has been identified in Lake Ontario, the St. Lawrence River, the Niagara River, Lake Erie, and Conesus Lake. While this disease currently has significant impacts on fish in the Great Lakes Region, there could be greater implications now that the dam at Fort Covington has been dismantled. Another fisheries issue is the discovery of bottom feeder fish with lesions on the mouth and head areas. The NYSDEC Regional Fisheries and the Cornell University College of Avian and Animal Medicine documented the cause of the lesions as chemical burning. A suspected source is the now closed Malone landfill, current on the "suspect" toxic waste site list. *Analysis* 

Considering the importance of fishing to both residents and tourists, Malone should consider investigating threats to the fishery. As the popularity of fishing in the Salmon River increases, the potential threat to economic development for Malone increases as well.

#### b. Wildlife

The Salmon River does not have any designated Significant Coastal Fish and Wildlife Habitats identified by either the NYSDEC or the NYSDOS. The WRA area, however, provides suitable habitat for a variety of wildlife species. The combination of forest lands, riverine systems and the occurrence of wetlands provides a diversity of habitats.

Based on the type of habitat and environs, mammals likely include white-tailed deer, red and gray fox, shorttail and longtail weasel, bobcat, striped skunk, raccoon, porcupine, gray and red squirrel, eastern chipmunk, woodchuck, snowshoe hare, meadow vole, redback vole, deer mouse, white-footed mouse, woodland jumping mouse, starnose mole and shorttail shrew, among others. Close to the surface water, it is likely that species such as beaver, mink, river otter and muskrat can be found.

Bird life in the WRA area is varied and abundant. Waterfowl and shorebirds are commonly found close to the River. A large variety of songbirds are present throughout the area, as are a number of predatory species.

A variety of reptiles are also likely to occur in the project area, such as snapping turtle, painted turtle, northern water snake, northern ribbon snake, eastern garter snake, northern ring neck snake, eastern milk snake, red-spotted newt, spotted salamander, red-backed salamander, American toad, spring peeper, gray tree frog, green frog, bullfrog, pickerel frog and wood frog.

Malone has consulted with NYSDEC (NY Natural Heritage Program) and the US Fish and Wildlife Service to determine whether any rare, threatened, or endangered wildlife species occur within the project area. Responses indicate that no federally or state-listed rare, threatened, or endangered wildlife species are known to exist within the project impact area. In addition, responses indicate that no habitat in the project impact area is designated or proposed as "critical habitat" in accordance with the provisions of the federal Endangered Species Act.

However, according to the "2000 Salmon River Watershed Environmental Quality Implementation Plan Proposal" (Franklin County Local Working Group), the NYS list of Threatened Species includes Osprey, Spruce Grouse and Northern Harrier as concerns within the County. The proposal also identifies a fish, the Eastern Sand Darter, as endangered due to habitat loss. In addition, according to the "Draft Application for New License for a Minor Water Power Project: Macomb Project," the Indiana bat, which is listed federally as threatened, and the bald eagle, which is listed federally as endangered, do occur in Franklin County. The application also identifies the upland sandpiper, listed as threatened in New York State, as having been observed in the area.

#### Analysis

While the NYSDEC and the US Fish and Wildlife Service indicated that there are no rare, threatened, or endangered wildlife species within the study area, Malone should continue to protect the habitats of wildlife throughout their boundaries and develop with respect to these habitats. The potential for economic development through enhanced protection is apparent, with possible opportunities through bird watching, hunting, and fishing.

#### SECTION III WATERFRONT REVITALIZATION POLICIES

#### **Introduction**

The Local Waterfront Revitalization Program (LWRP) policies presented in this chapter consider the economic, environmental and cultural characteristics of Malone's Waterfront Revitalization Area (WRA). The policies are comprehensive and refine existing State policies. They represent a balance between economic development and preservation that will permit beneficial use of and prevent adverse effects on waterfront resources. The policies provide direction to local communities to adopt their own LWRP policies and approaches to local economic and development issues. Once the local LWRP policies are adopted, they will guide state, Town, or Village activities occurring within the WRA. All policies reflect actions for both the Town and Village to undertake either alone or in partnership unless otherwise indicated.

#### DEVELOPED WATERFRONT POLICIES

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

The policy is intended to foster a development pattern in Malone that provides for beneficial use of the waterfront throughout the Town and Village and the downtown area's resources to be known as the "Village Core". The purpose of the LWRP is to assure the protection and beneficial use of the many waterfront resources and preserve the character of Malone as a historic northern industrial community. Traditionally, business development has focused on the downtown business district.

To enhance the value of the downtown district, the Village is broadening its economic development focus to encompass potential opportunities along the Salmon River waterfront. This presents both a physical and visual challenge since the Salmon River exists at a much lower elevation than the Main Street section of the Village Core. A visitor would not have the opportunity to visually connect with the waterfront unless they experience it as a pedestrian. Providing a downtown environment where the visitor is motivated to stop is an important part of the equation.

Downtown Malone will be revitalized through economic, development increased and improved recreational opportunities, and linkages to existing and newly planned community facilities. In addition, creative ways will be pursued to attract residents and visitors to the downtown area and offer a more diverse range of community activities and commercial goods and services.

Some development along the waterfront is presently not consistent with the character in the Village Core. In many locations it has a detrimental impact on the visual appearance of the river

corridor and also serves to limit both visual and physical access to the Salmon River. This policy is intended to foster a development pattern that provides for beneficial use of waterfront resources. The primary components of the desired development pattern are to strengthen the Malone waterfront as a center of activity, encourage water-dependent uses where appropriate, enhance stable commercial areas, eliminate blight in and around the downtown waterfront area and preserve open space and open it to public recreation where practicable.

Since Malone's original settlement, the community character of the Village and Town has been defined by a pattern of development with a strong physical and visual relationship to the Salmon River; its industrial roots, downtown and residential area are centered around the waterfront area. As Malone engages in the long-term planning process associated with the LWRP and focuses on its future development, priority should be given to land uses which emphasize this historic relationship and enhance the rich relationship of the community with the River. The Town and Village's focus will be on maintaining the present land uses, enhancing existing waterfront access points, providing a continuous waterfront trail and providing stream corridor standards to protect water quality.

### **1.1** Concentrate development and redevelopment in or adjacent to downtown Malone

The overall purpose of this policy is to combine land use components that highlight the existing natural resources of the Salmon River, Malone's local history and important built features, and to reinforce the identity of Malone as a riverfront community. New development in the Village Core should have some focus on the waterfront to best capitalize on the existing built environment. Since the Salmon River is too hazardous for recreational pursuits in the downtown area, its main role in the region will be as a scenic resource. Development and redevelopment should make use of existing infrastructure and should be limited to areas with no or few environmental constraints, avoiding any negative impacts on the Salmon River and the surrounding watershed.

The revitalization of the deteriorated, abandoned or poorly utilized sites within the waterfront and downtown area is a means of improving aesthetics, economic vitality and recreational opportunities. Deteriorated, abandoned or underutilized sites have been identified in Section II (Inventory and Analysis) of this LWRP, and there are specific sites that have been the focus of revitalization efforts, including the Flanagan Hotel and the Horton Mill. These properties have great potential for adaptive reuse and redevelopment for commercial and community purposes, to contribute to the waterfront and downtown revitalization efforts, and to display the rich history of Malone. The redevelopment of these properties will refocus public attention on the Village Core and its revitalization potential.

The following standards and implementation measures should be adhered to when evaluating future development:

- Participate in potential development opportunities surrounding the various dam structures in the Waterfront Revitalization Area (WRA) and link this development to the waterfront and the downtown.
- Support and promote projects that encompass the natural and historic importance of the waterfront and downtown areas.
- Strengthen the economic viability of the downtown area by concentrating initial economic development efforts at the intersection of the downtown and the Salmon River.
- Engage existing businesses and developers in future planning and development to implement the strategies outlined in the LWRP.
- Plan for economic development on a regional basis with surrounding communities recognizing the potential of the entire Salmon River waterfront.
- Provide for a mix of recreational, cultural and commercial opportunities along the river corridor and downtown areas to encourage partnerships, shared parking, and interconnections.
- Site land uses that are appropriate to the waterfront area, including cultural and commercial uses.
- Stimulate a market for future commercial and retail development by providing diverse housing opportunities in the second and third stories of commercial buildings in the downtown.
- Accommodate new waterfront uses in an orderly manner and foster safe, convenient waterfront access at strategic locations, especially at existing community gathering areas.

# **1.2** Ensure that development or uses take appropriate advantage of their waterfront location.

Malone has a limited amount of waterfront suitable for development. Much of the space has been devoted to industrial uses that are now defunct. Many of the associated buildings have been abandoned and fallen into disrepair. It is Malone's intention to provide a measure of control for future uses in the waterfront, including the rehabilitation of abandoned or underutilized buildings for uses that will attract both residents and visitors.

General principles to be followed in developing the above implementation measures that will ensure a consistent outcome include:

- Reserve the immediate waterfront for water-dependent uses and public recreation. All uses should provide economic development opportunities and/or public benefits.
- Accommodate water-enhanced uses where they are compatible with surrounding development, do not displace or interfere with water-dependent uses, and reflect the unique qualities of a waterfront location through appropriate design and orientation.
- Permit uses that complement existing or proposed uses that will serve to draw more visitors to the waterfront. Avoid uses on the waterfront, which cannot by their nature derive economic benefit from a waterfront location.

• Allow other uses that derive benefit from a waterfront location in appropriate locations such as residential uses above storefronts in the downtown.

#### **1.3** Protect stable residential areas from deterioration and incompatible uses.

Those areas that are primarily residential in the WRA along the shoreline between the roads and the river should be protected from adverse development impacts. Any new development should be compatible with the neighborhood character. Residential buildings along the waterfront that are in poor condition should be evaluated for other potential types of use that may be more appropriate for the waterfront. Malone should seek out developers that are interested in mixed-use development.

General principles that should be followed to ensure this outcome include:

- Encourage the rehabilitation of deteriorated buildings in the WRA by developing financial incentives for private developers.
- Provide for standards that set thresholds for demolishing substandard buildings.

#### **1.4** Maintain and enhance natural areas, recreation, open space and agricultural lands.

Malone has several outstanding public parks that could be enhanced by removing incompatible uses, increasing maintenance, and making improvements. These areas that need improvement are referred to in Section II, C.3 and C.4. Some of the most well used and loved areas enjoyed by residents and visitors include small pocket parks. The area adjacent to the Whippleville Bridge provides scenic views and access to the Salmon River. Agricultural lands exist to the south and north of the Village along the east bank of the Salmon River. These lands add significant value to the scenic viewshed and rural setting making these areas good driving and cycling corridors. The existing zoning that permits agricultural uses should continue.

General principles to be followed to ensure these outcomes include:

- Avoid loss of economic, environmental and aesthetic values associated with these areas.
- Maintain existing park facilities.
- Avoid expansion of infrastructure and services, which would promote conversion of these areas to other uses.
- Maintain natural, recreational and open space values, including those associated with Malone Country Club and Titus Mountain Ski Area. Careful attention should be paid to the potential loss of open spaces due to future development in these areas.

#### **1.5** Minimize adverse impacts of new development and redevelopment.

Present zoning and development standards for the waterfront are based upon uses that are not active. New standards need to be created to address the waterfront uses that are recommended in

the LWRP. Since much of the Salmon River waterfront is steep in the downtown area, great care must be taken to ensure that redevelopment and infill development is completed with minimal disturbance to the river.

The following standards and implementation measures should be adhered to when evaluating future development:

- Development shall be sited so as to not impair the waters of the Salmon River. Careful attention shall be paid to soil and hillside stabilization before, during, and after construction.
- Minimize all potential adverse land use, environmental and economic impacts that would result from proposed development.
- Minimize the potential for adverse impacts of types of development, which individually may not result in a significant adverse environmental impact, but when taken together could lead to or induce subsequent significant adverse impacts.

### Policy 2 Preserve historic resources of the waterfront area.

The intent of this policy is to preserve the historic and archaeological resources of the waterfront area. Concern extends not only to the specific site or resource but also to the area adjacent to and around specific sites or resources. The quality of adjacent areas is often critical to maintaining the quality and value of the resource. Effective preservation of historic resources must also include active efforts, when appropriate, to restore or revitalize. While the LWRP addresses such resources within the waterfront area, it actively promotes preservation of historic, archaeological, and cultural resources that have a waterfront relationship. This policy is applicable to the historic resources identified in Section II, including the Horton Gristmill and the Flanagan Hotel.

#### 2.1 Maximize preservation and retention of historic resources.

Malone has a beautiful stock of downtown structures, many of which are historically significant. Historic structures including the Horton Mill and the Flanagan Hotel should be reserved for redevelopment opportunities. As part of an initiative to create an historic district in the Village, an inventory of the buildings was developed. Buildings outside of the Village Core should also be inventoried and identified for their role in Malone's history. Historic and cultural markers plus an updated Town and Village wide tour would help deepen the understanding of Malone's early settlers, its role in national events such as the Revolutionary War and Abolition movement, and its industrial history.

The Horton Grist Mill is currently owned by the Malone Revitalization Foundation and was the focus of a feasibility study that was completed in 2003. Reconstruction would require a dismantling of the structure, an architectural assessment of the potential reuse of materials, and an archeological survey before reconstruction could occur. The reconstructed mill will be built to incorporate contemporary code requirements and accessibility standards.

The original Northern Institution for Deaf-Mutes school opened in 1884 at a different location. The school operated on College Avenue until its closure in 1943, after which the school became a satellite location for Clarkson College until 1951. In 1957, the school and associated lands were deeded to the Malone School District. During the 1980's North Country Community College occupied the campus until it relocated to Ballard Mill. The campus is now empty and represents an opportunity for rehabilitation or redevelopment.

The following standards and implementation measures should be adhered to when evaluating future development:

- Appearance of buildings should reflect the historic fabric of downtown area and avoid using architecture and colors not otherwise represented in the Village Core.
- Preserve the historic character of the resource by protecting historic materials and features or by making repairs using appropriate measures.
- Provide for compatible use of the historic resource, while limiting and minimizing alterations to the resource.
- Minimize loss of historic resources or historic character when it is not possible to completely preserve the resource, such as façade restoration.
- Relocate historic structures only when the resource cannot be preserved in place.
- Permit demolition of these buildings only where alternatives for retention are not feasible.
- Avoid potential adverse impacts of development on nearby historic resources.
- Comply with the U.S. Secretary of the Interior's standards for rehabilitation of historic resources.

### 2.2 Preserve and protect archaeological resources.

A site survey and cultural resource investigation should be conducted when an action is proposed in an area identified for potential archeological sensitivity.

General principles to be followed to ensure this outcome include:

- Minimize potential adverse impacts by redesigning projects, reducing direct impacts on the resource, recovering artifacts prior to construction, and documenting the site.
- Prohibit appropriation of any object of archaeological or paleontological interest situated on or under lands owned by New York State, except as provided for in Education Law, § 233.

### **2.3** Protect and enhance resources that are significant to the waterfront culture.

Malone's riverfront provided power for the early mills and now provides hydroelectric power for modern-day homes and businesses. This natural resource running through the back-yards of Malone now provides us with the opportunity and focal point to rejuvenate the waterfront area and provides a prime location for parks, nature walks, and tourist venues. The various hydropower sites throughout the Town and Village provide many opportunities for fishing access and passive use.

Standards and implementation measures to be followed to ensure this outcome include:

- Maximize the potential for public recreational use at all hydropower sites along the Salmon River. Continue the open dialogue with Brookfield Power and actively participate in the design and function of all sites offering public access particularly at the Macomb Dam and Chasm Falls Dam.
- Provide for educational and interpretive signage in the downtown areas of the Salmon River when projects are undertaken.

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

Visual quality is a major contributor to the character of the entire waterfront area, and the primary basis for the public's appreciation of the Salmon River corridor. In addition to exceptional scenic natural resources, the interplay of the built and natural environments is of particular importance to visual quality. The intent of this policy is to protect and enhance visual quality and protect recognized scenic resources of the waterfront area. The policy is applicable to the scenic resources identified in Section II, such as the views from Main Street and Lamica Lake.

#### **3.1** Protect and improve visual quality throughout the Salmon River viewshed area.

The Salmon River sits within a valley, surrounded by the rolling hills of the rural plateaus of the northern fringe of New York State. The river is visible from the roads that travel up the mountain in the southern portion of the Town, and along the roads on either side of the river. As the river meanders into the Village, the former industrial and residential buildings that once dominated the shoreline limit visual access. Main Street sits above the river, and travelers and pedestrians are afforded a unique look at the water and the Whittlesey Dam. In the Town, the river is very scenic and is visible from many of the local roads. One of the most scenic attributes of the Salmon River is the section downstream of the Macomb Dam, where the river flows into a deep, stone gorge, unique to any other part of the river within Malone.

Much of the Salmon River viewshed is undeveloped or rural in character. It is the intention of the LWRP to preserve the exceptional visual quality of the entire corridor. The Town has recently been addressing a number of proposed wind turbine structures and responded by adopting a Wind Energy Facilities Law. This law regulates the size and output of wind towers in order to protect neighboring property owners from the aesthetic impacts of the wind towers, as well as to ensure their health, safety and welfare.

Standards and implementation measures to be followed to ensure the above outcomes include:

- Screen structures and activities that detract from visual quality. Require review process for projects that may have a significant impact on the environment.
- Preserve existing vegetation that contributes to the scenic quality of the landscape.
- Newly sited structures in the viewshed of the Waterfront Area shall be sited as to minimize impacts on the Salmon River viewshed corridor.

### NATURAL WATERFRONT POLICIES

# Policy 4 Minimize loss of life, structures and natural resources from flooding and erosion.

Increased erosion, aesthetic impairments, loss of public recreational resources, loss of habitats, and water quality degradation can result from dam construction and water release practices. The cumulative impact of these structures can be very significant. As evidenced during the 1997 repairs of the Chasm Falls Hydroelectric Dam, major waterway construction projects can have long-lasting effects on the ecology and sediment levels of Malone's waterbodies. Before a permit is granted to allow construction of any development or dam structures, the purpose, function, impact, and alternatives need to be carefully evaluated to determine that the structures are necessary and to avoid adverse impacts. This policy seeks to protect life, structures, and natural resources from flooding and erosion hazards throughout the waterfront area.

#### 4.1 Minimize losses of human life and structures from flooding and erosion hazards.

Chapter 24 of the Village Code addresses Flood Damage Prevention to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. Properties that have been identified within areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) must adhere to the regulations set forth in Chapter 24. The flooding problems currently occurring along a three-mile stretch of the Salmon River, from Lower Park Street to the Macomb Dam, have been identified for mitigation.

The section of the Village of Malone Code that addresses stormwater and erosion control is titled "Filling and Grading", Chapter 21A. The purpose of this chapter is to ensure that the filling and grading of properties in the Village is conducted in such a manner as not to result in an increase of surface water runoff on to any other properties and shall not result in any condition which would increase erosion or result in any unstable condition upon the site or adjacent properties. This provision is not effective in that there are no standards for obtaining a permit. The provision does not coincide with or incorporate NYSDEC stormwater regulations. Once this provision is updated, as recommended in Section V, the Village will enforce the regulations.

Standards and implementation measures to be followed to ensure protection from erosion and flooding hazards include the following:

- Avoid development other than water-dependent uses in flood hazard areas.
- Relocate development and structures from the hazard areas, as practical.
- Use vegetative non-structural measures which have a reasonable probability of managing flooding and erosion, based on shoreline characteristics including exposure, geometry, and sediment composition.
- Enhance existing natural protective features and processes, and use non-structural measures, which have a reasonable probability of managing erosion.
- Use hard structural erosion protection measures for control of erosion only where the above measures are not sufficient to protect the principal use, or the use is water-dependent or a waterfront redevelopment area.
- Manage development in flood hazard areas so as to avoid adverse environmental effects, to minimize the need for structural flood protection measures, and to meet federal flood insurance program standards.

#### 4.2 Preserve and restore natural and manmade protective features.

There are numerous dam structures along the Salmon River for which there is a build up of sediment that eventually interferes with the structure's integrity. There have been times that water behind a dam has been released (controlled release) and this has resulted in a significant impairment in water quality and the ability of the Salmon River to act as a trout hatchery.

General principles that should be followed to minimize water quality impairment include:

- Maximize the protective capabilities of natural protective features by: avoiding alteration or interference with shorelines in a natural condition; enhancing existing natural protective features; restoring impaired natural protective features; and managing activities to minimize interference with, limit damage to, or reverse damage which has diminished the protective capacities of the natural shoreline.
- Minimize interference with natural river processes by: providing for natural supply and movement of unconsolidated materials; minimizing intrusion of structures into coastal waters and interference with coastal processes; and mitigating any unavoidable intrusion or interference.

# **4.3** Ensure that expenditure of public funds for flooding and erosion control projects results in a public benefit.

The following standards should be adhered to when evaluating future development:

• Give priority in expenditure of public funds to actions which: protect public health and safety; mitigate flooding and erosion problems caused by previous human intervention; protect areas of intensive development; and protect substantial public investment in land, infrastructure, and facilities.

• Expenditure of public funds should be limited to those circumstances where public benefits exceed public cost and prohibited for the exclusive purpose of protecting private development, except where actions are undertaken by an erosion protection district.

### Policy 5 Protect and improve water quality and supply.

The purpose of this policy is to protect the quality and quantity of water in the Salmon River. Significant improvements to water supplies and water treatment facilities have recently been completed; therefore, water supply is not an issue in the Malone community. Water quality considerations include both point source and nonpoint source pollution management. Water quality protection and improvement in the region must be accomplished by the combination of managing new and remediating existing sources of pollution.

# 5.1 Prohibit direct or indirect discharges, which would cause or contribute to contravention of water quality standards.

There are a number of sources for stormwater throughout the Village and Town along the Salmon River. These stormwater outlets are believed to be a significant source of pollution for the Salmon River and steps are needed to eliminate or otherwise mitigate these sources.

The following standards and implementation measures should be adhered to when evaluating future development:

• Ensure effective treatment of sanitary sewage and industrial discharges by maintaining efficient operation of treatment facilities, providing secondary treatment of sanitary sewage, improving nitrogen removal capacity, incorporating treatment beyond secondary for new wastewater treatment facilities, reducing demand on facilities, reducing loading of toxic materials, reducing or eliminating combined sewer overflows, managing on-site disposal systems, eliminate combined storm and sanitary sewer lines.

#### **5.2** Protect and enhance the quality of waterfront area waters.

Providing a reasonable level of water quality protection of water resources in the WRA requires there exist baseline water quality data available for comparison purposes. Since there is no comprehensive water quality data for Branch Brook, and limited data for Lake Titus and parts of the Salmon River, a more consistent water quality program will be required in order to measure the impacts of any policies or projects implemented as a result of this LWRP.

The following standards and implementation measures would apply:

- Minimize disturbance of streams, including their beds and banks, in order to prevent erosion of soil, increased turbidity, and irregular variation in velocity, temperature and level of water.
- Protect water quality of the waterway waters from adverse impacts associated with excavation, fill and disposal of dredged material.

### 5.3 Limit the potential for adverse impacts of watershed development on water quality.

Stormwater management to reduce water pollution is essential in areas where development activities are impacting water quality in the Salmon River. The primary sources of urban runoff are from road surface breakup, motor vehicle fuels and lubricants, atmospheric deposition, spills, litter, sediment and construction site debris.

The following objectives of controlling stormwater runoff should be adhered to when evaluating future development:

- Protect water quality by ensuring that watershed development protects areas that provide important water quality benefits, maintains natural characteristics of drainage systems, and protects areas that are particularly susceptible to erosion and sediment loss.
- Enhance the quality of nonpoint source runoff by water retention methods. Utilize a system of vegetative and structural methods that detain the increased volume and rate of stormwater runoff so as to prevent increases in the magnitude and frequency of flooding. Utilize a system of vegetative, structural and other measures, which store, minimize, or treat pollutants carried by surface runoff.
- Maintain natural stream channels and prevent accelerated bank erosion by controlling the rate and velocity of runoff into streams.
- Limit the impacts of individual development projects to prevent cumulative water quality impacts upon the watershed, which would result in a failure to meet water quality standards.

## Policy 6 Protect and restore the quality and function of the ecosystem.

Certain natural resources that are important for their contribution to the quality and biological diversity of the ecosystem have been specifically identified by the State for protection. These natural resources include regulated and unregulated freshwater wetlands, designated Significant Coastal Fish and Wildlife Habitats, and rare, threatened, and endangered species. The Salmon River does not have any designated Significant Coastal Fish and Wildlife Habitats identified by either the NYSDEC or the NYSDOS, however, there are a number of important spawning and nursery habitat locations. Both the U.S. Fish and Wildlife Service and the New York State Department of Environmental Conservation have no record of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats in the immediate vicinity of Malone.

#### 6.1 Protect and restore ecological quality.

Invasive plant and animal species including the Purple Loosestrife and Japanese Knotweed represent an emerging issue for Malone. The Invasive Species Elimination Program reports that some landscapes are routinely cultivated, such as roadside right-of-ways. Invasive plant species

are commonly held in check within these specific growing mediums. When invasive plants are abundant, widely distributed, and capable of expanding beyond these "edge communities" and into more natural, sensitive settings, they are ranked as a higher threat to the native biodiversity of the Adirondack Park's lands and waters.

In 2001, the four partners—the Adirondack North Country Association (ANCA), the Adirondack Park Agency (APA), the Department of Transportation (DOT), and the Department of Environmental Conservation (DEC) — formalized their commitment to the invasive plant project in a Memorandum of Understanding and agreed upon the following objectives:

- Identify invasive species of concern.
- Continue roadside inventories.
- Investigate and implement best management practices for control and containment.
- Monitor to measure success.
- Continue surveillance to identify and record new locations.
- Increase public and agency awareness through education and outreach including the use of interpretive signage.
- Conduct removal programs to assist in the elimination of existing invasive species.

The following standards and implementation measures should be adhered to when evaluating future development:

- Avoid significant adverse changes to the quality of the ecosystem as indicated by physical loss, degradation, or functional loss of ecological components.
- Retain and add indigenous plants.
- Monitor invasive plant species. Educate public regarding long-term mitigation of species that displace native plants.
- Avoid fragmentation of natural ecological communities and maintain corridors between ecological communities. Maintain structural and functional relationships between natural ecological communities to provide for self-sustaining systems.
- Avoid permanent adverse change to ecological processes.

#### 6.2 **Protect Fish Populations and Habitats**

The Salmon River is well known for its significant fisheries resources. The river is a natural trout habitat and supports a rainbow brook and brown trout population. Fish populations are also strong throughout the river due to DEC's stocking program in addition to naturally reproducing trout. Several issues continue to threaten the long-term health of the Salmon River fishery. Stress on trout fisheries is attributed to a number of factors. Water temperature is one important factor that is affected by the lack of shade cover over streams. Another stress factor is soil erosion and sediment buildup, or "embeddedness" in streams. This slows water flow, which smothers trout spawning areas and inhibits propagation.

Sedimentation, such as that which occurred in 1997 when high amounts of sediment were released into the river during repair and refurbishment of the Chasm Falls Hydroelectric Dam, have the potential to create long-term problems with the Salmon River fish habitat. Because the trout population has a significant recreational and economic value, solutions to the sediment problems need to be explored.

The following standards and implementation measures will be adhered to when evaluating future development:

- Avoid activities that would destroy or impair habitats through physical alteration, disturbance, or pollution, or indirectly affect the loss of habitat.
- Where destruction or significant impairment of habitat values cannot be avoided, minimize potential impacts through appropriate mitigation.
- Wherever practical, enhance or restore designated habitats and sensitive habitats so as to foster their continued existence as natural systems.

#### 6.3 Protect and restore freshwater wetlands and sensitive habitats.

The entire Salmon River and Branch Brook represent federal wetland areas. While the majority of designated freshwater wetlands exist in areas adjacent to Branch Brook, wetlands do occur in scattered locations along the banks of the Salmon River and associated surface waters throughout the area.

The following standards and implementation measures should be applied to projects impacting wetlands within the WRA:

- If trails or public access points are constructed as part of the LWRP and the Malone River Walk, measures must be taken to avoid wetland disturbance, water quality and streambank erosion. Adequate measures will be evaluated and implemented prior to commencing.
- Use the following management measures, which are presented in order of priority: (1) prevent the net loss of vegetated wetlands by avoiding fill or excavation; (2) minimize adverse impacts resulting from unavoidable fill, excavation or other activities; and (3) provide for compensatory mitigation for unavoidable adverse impacts. Provide and maintain adequate buffers between wetlands and adjacent or nearby uses and activities to protect wetland values.
- Restore and enhance freshwater wetlands wherever practical to foster their continued existence as natural systems.

## Policy 7 Protect and improve air quality in the waterfront area.

Air quality in Malone is exceptionally good. This policy provides for protection of the waterfront area from air pollution generated within the waterfront area or from outside the waterfront area which adversely affects air quality.

#### 7.1 Control or abate existing and prevent new air pollution.

The following standards should be adhered to when evaluating future development:

- Limit pollution resulting from new or existing stationary air contamination sources consistent with applicable standards, plans and requirements.
- Limit actions, which directly or indirectly change transportation uses or operation resulting in increased pollution.

# Policy 8 Minimize environmental degradation in the waterfront area from solid waste and hazardous substances and wastes.

The intent of this policy is to protect Malone residents from sources of contamination and to protect waterfront resources from degradation through proper control and management of wastes and hazardous materials. In addition, this policy is intended to promote the expeditious remediation and reclamation of hazardous waste sites to permit redevelopment.

#### 8.1 Manage solid waste to protect public health and control pollution.

Many areas along the banks of the Salmon River have become dumping grounds for waste oil, salt and sand deposits, snow piles, and other materials.

The following guidelines are used to address these issues:

- Prohibit the dumping of any solid waste in the Waterfront Revitalization Area by private and public entities.
- Plan for proper and effective solid waste disposal prior to undertaking major development or activities generating solid wastes.
- Expand existing recycling policies and programs to accept more local recyclables.
- Manage solid waste by: reducing the amount of solid waste generated, reusing or recycling
  material and using land burial or other approved methods to dispose of solid waste that is not
  otherwise being reused or recycled.
- Prevent the discharge of solid wastes into the environment by using proper handling, management and transportation practices.
- Operate solid waste management facilities to prevent or reduce water, air and noise pollution and other conditions harmful to the public health.

# 8.2 Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.

The following guidelines are recommended to address these issues:

- Prevent release of toxic pollutants or substances hazardous to the environment that would have a deleterious effect on fish and wildlife resources.
- Protect public health, public and private property, and fish and wildlife from inappropriate use of pesticides, particularly in agricultural lands.
- Take appropriate action to correct all unregulated releases of substances hazardous to the environment.
- Conduct inventory of existing point and non-point sources of pollution to the greatest possible.

#### 8.3 Prevent and remediate discharge of petroleum products.

The following guidelines are recommended to address these issues:

- Minimize adverse impacts from potential oil spills by appropriate siting of petroleum loading facilities.
- Have adequate plans for prevention and control of petroleum discharges in place at any major petroleum-related facility.
- Prevent discharges of petroleum products by following approved handling and storage, and facility design and maintenance principles.
- Clean up and remove any petroleum discharge, giving first priority to minimizing environmental damage.

#### PUBLIC WATERFRONT POLICIES

# Policy 9 Provide for public access to, and recreational use of the waterway, public lands, and public resources of the waterfront area.

Existing public access and opportunities for recreation are inadequate to meet the needs of the residents of and visitors to Malone. Given the lack of adequate public access and recreation, especially along the banks of the Salmon River, this policy incorporates measures needed to provide and increase public access throughout the waterfront area. The need to maintain and improve existing public access and facilities is among these measures, and is necessary to ensure that use of existing access sites and facilities is optimized in order to accommodate existing demand. This policy calls for the community to capitalize on all available opportunities to provide additional visual and physical public access along with appropriate opportunities for recreation.

# **9.1** Promote appropriate and adequate physical public access and recreation throughout the waterfront area.

Malone has identified parks at the Village Core (the area between Main Street, Duane Street, College Ave. and Pearl Street) as its first revitalization priority along the Salmon River. Conceptually, the Village Core is to become a walkable area connecting parks, cultural venues, small businesses, boutiques, restaurants, etc.

The following guidelines and implementation measures will be used to address these issues:

- Enhance and maintain existing public access and water-related recreation.
- Provide convenient, well-defined, physical public access to and along the shoreline for waterrelated recreation.
- Provide a level and type of public access and recreational use that takes into account proximity to population centers, public demand, natural resource sensitivity, weather, accessibility, compatibility with on-site and adjacent land uses and needs of special groups.
- Provide additional physical public access and recreation facilities at public sites.
- Provide physical access and provide connections to recreation parks, pocket parks, and schools throughout the WRA.
- Require new uses and development in the WRA to provide public access to trails and boardwalks.
- Incorporate public access, where appropriate, into public projects, such as dams.
- Include physical public access and/or water-related recreation facilities as part of development whenever development or activities are likely to limit the public's use and enjoyment of public waterfront lands and waters.
- Provide incentives to private development which provides public access and/or water-related recreation facilities.
- Restrict public access and water-related recreation on public lands only where incompatible with public safety and protection of natural resources.
- Make certain physical improvements and perform regular maintenance of trails, including the clearing of debris and vegetative overgrowth from trails, and the implementation of erosion control measures.

# **9.2** Provide public visual access from public lands to waterfront lands and waters or open space at all sites where physically practical.

The following guidelines are recommended to address these issues:

- Avoid loss of existing visual access by limiting physical blockage by development or activities. Minimize adverse impact on visual access to the Salmon River by clearly assessing the impact as part of the site plan review or SEQR process before issuing any permits.
- Mitigate loss of visual access by providing for on-site visual access or additional and comparable visual access off-site.

• Improve visual access to the Salmon River in the downtown by providing additional public spaces that have such access.

#### 9.3 Assure public access to public trust lands and navigable waters.

There are no public trust lands in the WRA. The Salmon River is a non-navigable watercourse for most months of the year. Other water bodies in the WRA either do not have public access (Lake Titus), or have ample public access (Lamica Lake).

#### WORKING WATERFRONT POLICIES

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

The intent of this policy is to protect existing water-dependent commercial, industrial, and recreational uses and to promote future siting of water-dependent uses at suitable locations. It is also the intent of this policy to enhance the economic viability of water-dependent uses by ensuring adequate infrastructure for water-dependent uses and their efficient operation.

Water-dependent uses contribute to the economic health of the region and are identified in Section II. The most appropriate uses relate to the development or enhancement of parks and trails. Marinas, boat launches, and swimming areas are not appropriate to the Salmon River corridor.

#### 10.1 Protect existing water-dependent uses.

Water dependent uses are defined as an activity which requires a location in, on, over, or adjacent to the water because such activity requires direct access to the water and the use of the water is an integral part of such activity. Actions that would adversely interfere with existing or potential water dependent uses should be avoided. There are presently no water dependent uses in the Village Core due to the hazardous nature of the Salmon River in this area. Water dependent uses outside the Village are primarily fly-fishing. Rotary Lake presently has water dependent uses that are limited to fishing and scenic value. Malone recognizes the need to provide improved facilities and access for water-dependent recreational uses such as fishing, hiking, bicycling and non-motorized boating in appropriate areas of the Salmon River. Within the Village Core, the river is the focal point for all pedestrians. Drawing pedestrians to the waterfront area and back through the Village Core is the main focus of the revitalization efforts.

The Town and Village seek to transform the Salmon River into a focal point for recreational activities that will generate business income from the local tourist trades. Key to this initiative is the revitalization of Malone's Downtown Business District. Recommendations should be aimed at developing a downtown business strategy that fosters community spirit and collaborative efforts within Malone's business community.

Standards to be used are as follows:

- Advance the adaptive reuse of underutilized buildings and encourage demolition of buildings that are beyond repair or are an eyesore to the community.
- Seek to attract a mix of unique, development that is enhanced by its location near or on the river and would have the potential to increase economic activity within the Village Core. Avoid actions which would displace, adversely impact or interfere with existing waterdependent uses.

# **10.2** Minimize adverse impacts of new and expanding water-dependent uses, provide for their safe operation and maintain regionally important uses.

• Site new facilities where there is: adequate upland for support facilities and services, sufficient waterside and landside access, appropriate depth, suitable water quality classification, minimization of effects on wetlands, or fish spawning grounds, and adequate water circulation.

### Policy 11 Promote sustainable use of living freshwater resources.

Continued use of living resources depends on maintaining long-term health and abundance of fisheries resources and their habitats, and on ensuring that the resources are sustained in usable abundance and diversity for future generations. This requires that State and local governmental entities strive toward active management of fisheries like the Salmon River and its tributaries, protection and conservation of habitat, restoration of habitats in areas where they have been degraded, and maintenance of water quality at a level that will foster occurrence and abundance of living freshwater resources. Allocation and use of the available resources must: (1) be consistent with the restoration and maintenance of healthy stocks and habitats, and (2) maximize the benefits of resource use so as to provide valuable recreational experiences and viable business opportunities for recreational fisheries.

#### **11.1** Ensure the long-term maintenance and health of living freshwater resources.

The following guidelines will be used to address these issues:

- Ensure that recreational uses of living freshwater resources are managed in a manner that: results in sustained useable abundance and diversity of the freshwater resource, does not interfere with population and habitat maintenance and restoration efforts, uses best available scientific information in managing the resources and minimizes waste and reduces discard mortality of freshwater fishery resources.
- Support the Salmon River Management Plan that calls for certain stocking limits and actions to protect the ability of the Salmon River to support an outstanding trout fishery.
- Monitor the spread of non-native plant and animal species in and around the Salmon River.

- Support the activities of the Adirondack Park Invasive Plant Program.
- Protect, manage and restore sustainable populations of indigenous fish, wildlife species and other living freshwater resources.
- Foster occurrence and abundance of freshwater resources by protecting spawning grounds, habitats and water quality and enhancing and restoring fish habitat.

#### **11.2** Provide for recreational use of freshwater resources.

- Maximize the benefits of freshwater resources to provide a valuable recreational resource experience and viable business opportunities for recreational fisheries, particularly the sport of fly-fishing.
- Where fishery conservation and management plans require actions that would result in resource allocation impacts, ensure equitable distribution of impacts among user groups.
- Protect the public health and the marketability of fishery resources by maintaining and improving water quality.
- Support improved Public Access at the sites offering NYSDEC Public Fishing Rights. Analyze the points of access along the Salmon River and offer means of improving locational signage, parking, site interpretation and amenities.

### Policy 12 Protect agricultural lands.

The intent of this policy is to conserve and protect agricultural land by discouraging the conversion of farmland to other uses and protecting existing and potential agricultural production. The loss of active agricultural land occurred primarily due to residential development, which has rapidly transformed the landscape from one dominated by agrarian uses and activities to one dominated by single-family residences. Protecting the remaining agricultural land is necessary to ensure preservation of the agricultural economy, farming heritage, open space, and scenic quality along the Salmon River. Agricultural lands exist to the south and north of the village along the Salmon River. These lands have the capacity to degrade the water quality of the corridor if improperly managed, but they also add significant value to the scenic viewshed and rural setting, making these areas attractive driving and bicycling corridors.

#### **12.1** Protect existing agriculture and agricultural lands from conversion to other land uses.

• Protect existing agricultural use and production from adverse impacts due to: public infrastructure and facility development, creation of other conditions which are likely to lead to conversion of agricultural lands and environmental changes which are likely to reduce agricultural productivity or quality, including, but not limited to, quantitative and qualitative changes to groundwater resources.

- Provide sufficient buffering as part of new development located near agricultural land.
- Adopt the standards for the protection of remaining agricultural lands using resources such as the Farm Friendly Checklist published by the American Farmland Trust.

# 12.2 Minimize adverse impacts on agriculture from unavoidable conversion of agricultural land.

- Minimize encroachment of commercial, industrial, institutional or residential development on agricultural lands.
- Retain or incorporate opportunities for continuing agricultural use.
- Locate and arrange development to maximize protection of the highest quality agricultural land in large contiguous tracts for efficient farming.

# Policy 13 Promote appropriate use and development of energy and mineral resources.

In dealing with energy problems, the first order of preference is the conservation of energy. Energy efficiency in transportation and site design, and efficiency in energy generation are the best means for reducing energy demands. Reduced demand for energy reduces the need for construction of new facilities that may have adverse impacts on waterfront resources. In addition to the impacts of construction of new energy generating facilities, the potential impacts of oil and gas extraction and storage and mineral extraction must be considered. In particular are the potential adverse impacts of mining activities on aquifers.

#### **13.1** Conserve energy resources.

• Plan and construct any development in the WRA using energy efficient design.

# **13.2** Promote alternative energy sources that are self-sustaining, including solar and wind powered energy generation.

The Town of Malone adopted a local law in May 2006 entitled "Wind Energy Facilities" to be added to the Town Code. The Town Board adopted the law in order to promote effective and efficient use of the Town's wind energy resource through Wind Energy Conversion Systems (WECS), without harming public health and safety, and to avoid jeopardizing the welfare of the residents (Local Law 1 of 2006). Through the local law, the Town issued some of the following findings:

• While wind energy is a potential abundant, renewable and nonpolluting energy resource of the Town its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources, however, the potential benefits must be balanced against potential impacts.

- The generation of electricity from properly sited small wind turbines can be a cost effective mechanism for reducing on-site electric costs, with a minimum of environmental impacts.
- Regulation of the siting and installation of wind turbines is necessary for protecting the health, safety, and welfare of neighboring property owners and the general public.
- Large-scale multiple-tower Wind Energy Facilities represent significant potential aesthetic impacts because of their large size, lighting, and shadow flicker effects.
- Large-scale Wind Energy Facilities may be significant sources of noise, which, if unregulated, can negatively impact adjoining properties.
- The Town has many scenic viewsheds, which would be negatively impacted by large-scale multiple-tower Wind Energy Facilities.
- In siting such facilities, avoid visual and physical interference with waterfront resources, including migratory birds, and coastal processes.

# 13.3 Ensure maximum efficiency and minimum adverse environmental impact when siting major energy generating facilities.

- Discourage the siting of major energy generating facilities, as they are an inappropriate use on the Salmon River.
- Site and construct new energy generating and transmission facilities so they do not adversely affect natural and economic waterfront resources.

#### **13.4** Minimize adverse impacts from fuel storage facilities.

- Regional petroleum reserve facilities shall not be sited in the waterfront area.
- The production, storage or retention of petroleum products in earthen reservoirs should be prohibited.
- Protect natural resources by preparing and complying with an approved oil spill contingency plan.

#### SECTION IV PROPOSED LAND USES, WATER USES, AND PROJECTS

### A. Introduction

This section describes proposed land and water uses for the waterfront revitalization area, the proposed projects, and the project alternatives desirable during the implementation of the LWRP. This section will include descriptions of the following:

- Range of most appropriate land uses and associated potential development opportunities.
- Direct, indirect and cumulative economic benefits to the community and region.
- Public and private costs associated with recommended uses and projects.
- Infrastructure improvements required to support the proposed alternative uses and projects.
- Range of estimated costs for individual improvements and potential financing opportunities.

The proposed land uses in the Waterfront Revitalization Area (WRA) are intended to implement the policies contained in Section III. They reflect a vision for the application of these policies to the existing land use patterns and to natural and constructed resources, taking into account development constraints and what is perceived as the development potential.

The first priority in developing an economic development plan for the waterfront and Village Core areas is to strengthen Malone's identity as a historic waterfront community. Malone's rich river heritage is complemented by its unique physical characteristics. These characteristics include its long shoreline on both sides of the river, the dramatic waterfalls downstream at the Macomb Dam and upstream in Chasm Falls, the spectacular way the river winds through the center of the Village, and the magnificent viewsheds throughout the corridor. These characteristics, combined with a variety of natural and cultural resources, contribute to the strong sense of place that Malone residents want to preserve for future generations. They also provide potential for the development of new recreational and economic opportunities based on the Salmon River.

The objectives of the LWRP would be furthered by sustaining and enhancing existing land use patterns that are consistent with the vision set forth in this document, primarily patterns that utilize existing infrastructure and resources wisely. At the same time, the LWRP proposes to modify certain previously authorized land uses adjacent to the waterfront that are inconsistent with this vision, and not in conformance with contemporary realities, and suggests additional changes over a broader area that should be considered in the future. These proposals are designed to establish a planning framework that will stimulate economic growth and revitalization for the Waterfront Area. It is also the purpose of the LWRP to encourage a mix of uses on the waterfront that are consistent with the policies and will best serve Malone's needs.

As a result of the Inventory and Analysis of Malone's resources contained in Section II, and the identified policies of Section III, existing land use patterns can be broken down into those that are predominantly stable, and those that are suitable for or in need of development, redevelopment, stabilization and/or enhancement.

# **B. Proposed Land Uses**

The majority of the land uses in the WRA will remain consistent within the Village and Town of Malone. The newly proposed Waterfront Overlay District provides added protection of the Salmon River waterfront and ecology. The existing vegetation along the Salmon River is effective in creating a secluded natural experience for waterfront land owners, boaters, hikers and other waterfront users. In addition, a vegetative buffer reduces the velocity and volume of stormwater runoff entering the River, increases infiltration, decreases erosion, and protects water quality. Vegetation filters out pollutants, including nutrients from fertilizers and agricultural pesticides.

The Waterfront Overlay (WO) District is intended to protect a scenic corridor along the Salmon River and its tributaries, in accordance with the Town and Village of Malone Local Waterfront Revitalization Plan. The purpose of the district is to maintain a green, undeveloped corridor along much of both the Town and Village waterfront and to provide a consistent level of protection of the visual, environmental and historic resources within this corridor. The WO District is overlaid onto existing zoning districts. All provisions of the underlying districts remain in full force, except where provisions of the WO District differ. In such cases, the more restrictive provision applies. The principal control mechanisms of the WO are construction setbacks from the waterline, restrictions on the removal of natural vegetation within an established buffer zone adjacent to the water, and performance standards governing land use activities within the district. The WO will extend two-hundred (200) feet from the Salmon River high water mark.

There are numerous lands and buildings within the Village and Town that are vacant, abandoned and/or underutilized. In most cases, these represent unique opportunities for rehabilitation and redevelopment. However due to the condition of the buildings and high cost of rehabilitation, there may be instances where buildings may be better suited for demolition so that the land could be newly developed. At a minimum, guidelines should be created for Village Core historic preservation and restoration projects. In addition, standards for the development of new non-residential buildings should be adopted for the Village Core.

## C. Proposed Water Uses

The Malone community recognizes the need to provide improved facilities and access for waterdependent recreational uses such as fishing, hiking, bicycling and non-motorized boating. Within the Village Core, the river is the focal point for all pedestrians, and allowing visual and physical connections between Main Street and the waterfront is of paramount importance. Drawing pedestrians to the waterfront area and back through the Village Core is the main focus of the revitalization efforts.

# **D. Proposed Projects**

The projects that are recommended in this section respond to the issues and opportunities identified in the inventory and analysis in Section II, and comply with the policies set forth in Section III. These recommendations seek to provide a balance of environmental, recreational and economic development initiatives, while preserving the unique natural and cultural character of Malone's Waterfront and Village Core areas. Specific elements of the proposed plan are outlined below. Each project is presently in the conceptual stage, and considerable further work will be required to implement individual projects.

The community resources, local laws and regulations necessary to implement these recommended projects are set forth in Section V of this document.

#### 1. Recreation and Public Access

The importance of recreational facilities, waterfront activities and public spaces to a community's character and quality of life cannot be overemphasized. Whether it be a canoe putin, a quiet trail along the river, an overlook over a roaring waterfall, or a bench at the edge of a lake, the ability of people to view, interact with, and have access to the water continues to be a part of the human experience in our environment. The Salmon River, its impoundment areas and tributaries provide the residents and visitors of Malone with the opportunity to have these waterfront experiences. It is the responsibility of the community and the landowners to protect and enhance this resource, and to provide as many places for the public to access the water as possible. The following recommended projects will assist the Town and Village of Malone in their pursuit to create and improve their waterfront resources.

#### a. Mill Park Feasibility Study

Malone's Local Waterfront Revitalization Committee (herein after LWRP Committee) has identified parks within the Village Core as its first revitalization priority along the Salmon River. Main Street, Duane Street, College Avenue and Pearl Street are the boundaries of the Village Core. Conceptually, the Village Core is intended to become a walkable area connecting parks, cultural venues, small businesses, boutiques, restaurants, etc. To stimulate this development, the focus of the Mill Park Feasibility Study is to determine the



feasibility of developing a public park on the upstream right side the Salmon River below Duane Street. The study would also conceptually outline how those parks are to be integrated with the north/east side of the river between Main Street and the Horton Mill and with future pathways extending upstream and downstream along the River. Work will also include implementation planning, priority actions, timeframes, and potential funding sources.

#### Park Concept

The Village owned property where Main Street passes over the Salmon River is an ideal place to develop a community park and enhance the visual and physical connection between downtown and the river. The park site itself presents some challenges with regard to topography, but the dramatic views of the river and the interesting elements that these challenges allow will create an interesting and unique public space for Malone.

The Mill Park on the Salmon River could offer a number of design components to provide public



amenities in the Village. Opening up space for passive and limited active recreation along the river, as well as shaded river viewing areas and a pedestrian walking loop will allow users to enjoy the outdoors and the waterfront. Duane Street level and riverfront overlook areas will provide scenic views of the river and enhance the experience of visiting downtown Malone. Connections from this park to other open space and recreation areas within the Town and Village would create a regional trail system for the community. Another key project in the revitalization of the Village Core is the rehabilitation of the Horton Mill.

#### Park Components

The main area of the Mill Park will consist of an open "great lawn" surrounded by a stone-dust pedestrian walking loop. Stormwater management components surrounding the lawn area and adjacent to the river would include landscaped rain gardens and butterfly gardens. A pedestrian bridge would connect the two sides of the Salmon River, and walking paths, trail connections, and a boardwalk covering the existing penstock would be incorporated into the east side of the river.



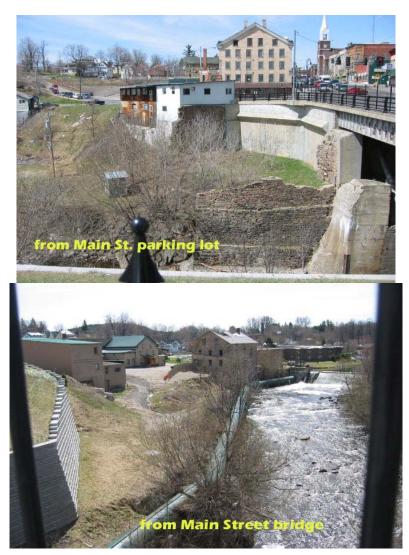
Access into the park from the upper level will be mainly via a newly constructed stairway with resting levels, which would be on a straight axis with a proposed river overlook platform extending out over the Salmon River. Handicapped and service vehicle access will be made possible through improvements to the existing driveway that connects to the site to Duane Street, which is currently being used as a construction drive. An opportunity may be present to establish a performance space in the park as well, through the acquisition and reuse of the existing storage building.

The existing parking lot on Duane Street would be used as parking for the Mill Park, and the adjacent paved area could be converted into a children's playground including play structures and a spray pool.

#### Penstock Boardwalk

This part of the Greenway proposes a boardwalk along what is known as the Penstock, a water conduit that runs along the northeast bank of the Salmon River in Malone's Village Core from

the Whittle C Dam adjacent to the Horton Mill to the Main Street Bridge. The Penstock will be utilized as a pedestrian corridor that will connect the Horton Mill to the open space area under the Main Street Bridge. A pedestrian bridge is planned to cross the Salmon River at this location connecting it to the new Mill Park on the Duane Street side. The purpose of the project is to provide safe public access to the river and to create potential future business opportunities in the Horton Mill and other locations along both sides of the river. The planning of this project should be conducted in close consultation with the Federal Energy Regulatory Commission (FERC) and the owner of the facility to ensure that safety and security issues are addressed. See: Figure IV-1 Conceptual Site Plan.



#### **Existing Conditions along the Penstock**



**Concept Trail atop the Penstock** 

### b. Comprehensive Trail Plan and Development

This project establishes a continuous pathway along the Salmon River corridor primarily along existing roadways in shared right-of-ways. This approach will take advantage of occasional sweeping views of the Salmon River in one direction and the countryside in the other. A series of pocket parks are proposed to link the trail to various river access sites. All town and village parks and schools will be connected to the Greenway Trail, either directly or indirectly. The trail will be established in phases as outlined in the narrative below. The order of the phases will vary depending on route obstacles and the availability of funds. The abandoned rail bed on the ridge above the upstream right bank of the river is a potential future location of a trail. The feasibility of developing a trail in the rail bed is outlined as a project in (g).

- Main Street to North Country Community College Will generally follow the left bank from the Mill Park to the college (College Ave.). A connection should be made to the Memorial Recreation Park from the Children's Fishing Pond possibly using Scott Drive as part of the route.
- Main Street to West Street Bridge On the left bank Amsden St. to Coffee St. with a possibility of a right of way from the end of that street to the bridge. If this route is not feasible, an acceptable alternative route is Amsden St. to West St. all the way to the bridge.
- Memorial Recreation Park to Chasm Falls Shared roadway with County Rte 25. This road follows the left upstream bank of the river until Bill King Park at which time the river crosses under the road. From there to Chasm Falls it follows the right upstream bank.

- NCCC to Whippleville Follow Williams St. to River Rd. This route follows the right upstream riverbank closely when on the River Rd. Once in Whippleville this branch would connect with County Rte. 25. This route includes many exceptional views of the river along the River Rd.
- West Street Bridge to Lamica Lake and the Macomb Dam follow Lower Park St. The St. Lawrence gas pipeline, which was recently approved by the Public Service Commission, is planned to cross the Salmon River just downstream of the West Street Bridge. A distribution node is planned for the area adjacent to the bridge. These facilities will need to be considered as part of the planning for the proposed trail route.
- Improve and extend the Franklin Academy High School trail along the left bank of the river.

#### c. Pocket Parks

The area adjacent to the Whippleville Bridge provides scenic views and access to the Salmon River. There is an opportunity to develop a small pocket park on the east side of the river that could provide non-motorized boat access, fishing and passive recreational opportunities. Public access should be explored through easements from the current landowners.

The Chasm Falls Dam Impoundment site has the potential for a formal pull-off area for viewing of the falls and trail development. Malone will need to work with Brookfield Power to develop a set of plans with full public input.

The Macomb Dam Trail, Pocket Park, and Boat Launch project is a public/private partnership that was established as part of the recent FERC (Federal Energy Regulatory Commission) dam re-licensing process. Brookfield Power, owner of the site, has created a recreation trail and boat launch for non-motorized watercraft on Lamica Lake. Use of Lamica Lake for recreational boating is being impacted by the deposition of sediments which limits water depth.

A Water Quality Certification for the continued operation and maintenance of the existing Macomb Hydroelectric Project located on the Salmon River in the Town of Malone, approximately 2.5 river miles north of the Village was granted by FERC in 2007. The Water Quality Certification is part of an application to the Federal Energy Regulatory Commission (FERC) for a new license. The project will be run in accordance with applicable provisions of the Macomb Project Settlement Agreement dated November 2, 2004. That settlement includes the following: maintenance of a base flow of 125 cfs (or inflow to the Macomb impoundment, whichever is less) from the Project's tailrace, fish protection provisions and downstream fish movement provisions, sediment management, and a requirement to install a fish stocking tube in the Project's tailrace.

The segment of the Salmon River between the Ballard Mill Dam and the Brand Road Bridge over Lamica Lake is part of a U.S. Army Corps of Engineers-sponsored Flood Control Project which is designed to maintain adequate flows to pass flood waters and ice. The Flood Control Project is a joint effort between the Army Corps of Engineers and the DEC and requires a permit for all activities along the bed and banks of the River pursuant to 6NYCRR Part 501 (Use of Flood Control Lands).

#### d. Park Improvements

A master plan for Memorial Recreation Park should be reevaluated to refurbish the exercise trail. Much of the sidewalks, trail sections and equipment are in disrepair. Trail sections from Memorial Park need to be integrated to the High School and to North Country Community College. Rotary Pond's water quality has been tested and deemed safe for swimming.

The North Country Community College has a number of ongoing improvements underway on their property along Ballard Dam and the adjacent impoundment. This project will be enhanced through the addition of trails throughout the site including the trail across Ballard Dam and south along the river to the High School.

The Salmon River Public Access Improvement Project will analyze the points of access along the Salmon River and offer a means of improving locational signage, parking, site interpretation and amenities. The project could also design and fund the creation of a brochure that highlights all points of access and their types of use. Particular focus should be on the permanent public fishing rights that exist along the Salmon River. DEC has produced a brochure of Public Fishing Rights locations along the Salmon River. The brochure can be found on the DEC's website at <u>www.dec.ny.gov/docs/fish\_marine\_pdf/pfrsalmonrf.pdf</u>. The DEC's brochure precisely delineates locations of Public Fishing Rights stream sections. This information can help prevent anglers from adjoining properties. It is important to note that the Public Fishing Rights program allows only public fishing. These locations are not available for boat launching, picnicking, hiking or scenic viewing. Therefore, any brochure produced that promotes these activities would have to clearly identify allowed uses at all locations including Public Fishing Rights sites.

The Bill King Memorial Park is a jewel of a park along the Salmon River that needs simple upgrades including picnic tables, gazebo, new signage and a trail loop. Concept plans have already been prepared. This project can be successfully completed through a partnership of such groups as the Boy Scouts, and Rotary Club, or other civic organizations.

#### e. River Viewshed behind Villa Fiori Restaurant

The land behind Villa Fiori Restaurant on the east side of the Salmon River is largely inaccessible and not visible from Main Street. With improved accessibility, however, the area could conceivably be redesigned to provide additional public access to the river. The most likely scenario is for the municipality to clean up the site and for private businesses to create attractive views of the river from decks or balconies. The restaurant owner also owns land directly behind the Villa Fiori restaurant. It may also be possible, with private cooperation, to create a park at this location.

#### f. Rail Trail Feasibility Study

The potential of the old abandoned rail bed for a recreational trail should be evaluated. Most of the rail bed is on a high ridge approximately one-half to three-quarters of a mile east of the Salmon River. The Town and Village could conduct a feasibility study to research ownership of the property, history of use, the potential for views to the Salmon River, the potential for public access and the environmental constraints.

#### g. Easements and Acquisitions to Span Gaps in the Trails Network

Trail easements must be designed to accommodate many types of trails, trail uses and address many potential resource impacts. Trail easements will be secured, by the Town and Village, to construct many of the trail connections that are recommended in the LWRP. These easements will be identified as the trails are developed. Many of these agreements will be negotiated between Brookfield power and the municipalities as part of future re-licensing reviews.

#### h. Village DPW Relocation - Children's Fishing Pond Park Enhancements

This project involves studying the possibility of removing the Village of Malone DPW building and salt storage facility to another location, possibly in a shared facility with the Town of Malone. This will open up the opportunity for the Village to develop the site for a wide range of recreational activities including an outdoor skating rink, amphitheatre, skateboarding park,

indoor pool and trails. This site has an existing pond that is stocked and is available for fishing for senior citizens and youth of the community. The existing use will not change but the area will be enhanced to increase the types of uses on the property. The site is extremely scenic and is adjacent to the Branch Brook and the Salmon River. The redevelopment of this site will include a trail connection of the Children's Fishing Pond Park to the Issues of ground Recreation Park. contamination, access and stormwater management will be addressed.



**Existing Conditions at Children's Fishing Pond Park** 

The Village should assess the impacts relating to the removal of the DPW building at the site of the Children's Fishing Pond. The highest use of this site is for recreation, however, there are issues relating to oil storage and hazardous waste.



Concept Drawings for Proposed Trail along the Salmon River at Children's

## 2. Ecological Protection and Enhancement Projects

#### a. Develop a Watershed Management Plan for the Salmon River

A watershed plan is a strategy and a work plan for achieving water resource goals that provides assessment and management information for a geographically defined watershed. It includes the actions, participants and resources related to development and implementation of the plan. The watershed planning process uses a series of cooperative, concise steps to characterize existing conditions, identify and prioritize problems, define management objectives, and develop and implement protection or remediation strategies as necessary. A watershed management plan is being developed for the Salmon River watershed, and includes Lake Titus and Branch Brook, direct tributaries to the Salmon River. At the present time, minimal data is available regarding the quality of the water that flows to the Salmon River from these sources. The watershed management plan should gather all the available water quality and land use data, analyze the data, and complete a watershed management plan to better understand the relationship between land uses, pollutants and the water quality of the Salmon River.

Watershed planning is an additional useful tool for achieving water resource goals. It typically provides assessment and management information for a geographically defined watershed and includes the actions, participants and resources related to development and implementation of the plan.

#### b. Stormwater Management Plan

There are a number of point and non-point sources for stormwater throughout the Village and Town along the Salmon River. These stormwater sources are not inventoried in a comprehensive manner and remain largely unknown. This project entails the assessment and condition of the stormwater outlets in the WRA. A Stormwater Management Plan should be developed to address mitigating the stormwater and the associated erosion and aesthetic issues along both sides of the Salmon River with the plan for both public and private projects. Stormwater flushing issues at the Sewage Treatment Plant should also be addressed at this time. The Village and Town should conduct a study to inventory and identify the areas of uncontrolled and/or untreated stormwater runoff in the WRA. Sources of stormwater runoff and water pollution include agricultural runoff, septic systems, diffuse urban runoff, land disposal areas, and household hazardous waste disposal. Particularly sensitive sites exist along important stream corridors and include the Salmon River, Lamica Lake, and Branch Brook. Identified sites should also include municipal storm drains that empty directly into the Salmon River including: Pearl Street and College Avenue; Duane Street behind Huck's; Rear of Villa Fiore; Catherine Street behind TruStitch; 43 Howard Avenue; LaFayette Street; Willow Street Bridge; Park Street Brook; Charles Street; Fifth Street; Cedar Street; Elbow Street; and College Avenue by Glazier's. Following the inventory and analysis of sources of uncontrolled and untreated stormwater runoff, a management plan should be developed by a professional consultant to offer specific recommendations to mitigate these stormwater sources. Potential retrofits can also be considered on existing systems.

# c. Water Quality Monitoring Programs for the Salmon River, Branch Brook and Lake Titus

There is no comprehensive water quality data for Branch Brook, which flows into the Salmon River. A water quality-monitoring program should be developed and coordinated for all three water resources since they are closely related. It is recommended that the Lake Titus Association re-join the New York Federation of Lake Associations' Citizen's Statewide Lake Assessment Program (CSLAP), which teaches volunteers to take and process water quality samples and send them to labs for testing. There are also stream-monitoring programs that utilize volunteers to take water quality samples which are then taken to the state and evaluated. This program should be explored for its value for implementation on the Branch and Salmon Rivers.

A community based water quality monitoring program should be developed to monitor the water quality of the Salmon River at specific locations. Volunteers would be trained to take water quality samples and process them for testing at certified labs. Such data would help better understand the impact of non-point and point source pollutants, and monitor changes in the river.

#### d. Stream Corridor Management Plan

Stream corridor management places primary emphasis on water quality protection and enhancement through the control of nonpoint sources of pollution such as erosion and sedimentation, and on protection of natural and cultural resources in the stream corridor. The Town and Village can realize economic and social benefits if the local streams, lakes and river are properly managed. The following benefits may be realized when a set of tools is incorporated by local officials within a land use planning and regulatory framework:

- Protection of the natural environment including water quality, soil conservation, fisheries and wildlife;
- Protection of health and safety from flooding and storm damage;
- Improved cultural and economic environment through the protection of aesthetic conditions along streams.

The Salmon River streambank has lost its integrity in several areas, causing waterfront land and landside habitats to be eroded and adversely impacted. This situation has also made some areas more sensitive to flooding, causing further erosion and sedimentation in the Salmon River. The area in most need of restoration and re-stabilization extends from the Main Street Bridge to the Macomb Dam.

The Town and Village should develop a priority project that evaluates the condition and stability of the Salmon River stream banks. The project would also offer mitigation recommendations to remediate poor conditions along the stream bank. Recommendations should include that all public works projects be reviewed for impact on the stream banks and water quality. The plan should be comprised of the following elements:

- identify the planning area
- inventory and analysis of land use and environmental resources
- identify problems and needs assessment
- establish the stream corridor management boundary
- establish goals and objectives
- analyze land use controls, planning initiatives and their consistency with goals and objectives
- identify management options
- prepare stream corridor management plan, including implementation

As part of this project, the proposal for an agricultural waste management system for the control of surface and groundwater contamination, developed and implemented by the Franklin County Local Working Group in 2000, should be reviewed and incorporated into the Stream Corridor Management Plan.

Development of a Stream Corridor Management Law should also be considered that would provide permit requirements and standards for the protection of the stream corridors connecting to the Salmon River within the Town and Village of Malone. These regulations would preserve the quality of the Salmon River and its tributaries, protect the riparian and aquatic ecosystems of streams feeding the river, and make environmentally sound use of the land resources surrounding the Salmon River.

#### e. Implement an Agricultural Waste Management System

Limit environmental quality hazards by implementing an agricultural waste management system to address clean and untreated water management and manure handling. Stream bank stabilization and wildlife corridors should be addressed as a main concern during planning.

## f. Fisheries Improvements

Future fish stocking should be conducted in accordance with the report completed by DEC. The stocking of rainbow trout should not occur above the Ballard Dam since it will have the effect of displacing brook trout. Catch and release programs should be considered (reconsidered) for the area of Macomb Dam and downstream. Public fishing access sites should be maintained by DEC. A new accessible fishing access/platform was recently constructed off Park Street using DEC's Habitat Stamp program. The site includes a parking area and accessible path and fishing platform.

## g. Invasive Species

The Invasive Species Elimination Program reports that some landscapes are routinely cultivated, such as roadside right-of-ways. Invasive plant species are commonly held in check within these specific growing mediums. When invasive plants are abundant, widely distributed and capable of expanding beyond these "edge communities" and into more natural, sensitive settings, they are ranked as a higher threat to the native biodiversity of the Adirondack Park 's lands and waters. In 2001, the four partners—ANCA, APA, DOT, DEC — formalized their commitment to the invasive plant project in a Memorandum of Understanding and agreed upon the following objectives:

- Identify invasive species of concern
- Continue roadside inventories
- Investigate and implement best management practices for control and containment
- Monitor to measure success
- Continue surveillance to identify and record new locations
- Increase public and agency awareness through education and outreach including the use of interpretive signage
- Conduct workshops on home removal of invasives

## **3. Historic Preservation Projects**

Water has been the driving force behind settlement, development, agriculture, industry and culture since the beginning of human history. Native American artifacts, evidence of previous settlements and dwellings, remnants of bygone industry and power generating facilities, and many other historic resources are found along the banks of New York's rivers, lakes and streams. These resources are an important facet of our cultural heritage and when possible should be preserved and protected for the education, remembrance and respect of future generations. Malone and the Salmon River possess many symbols of the past, from former trading routes to remnants of the days when the location of Main Street was stories below its current location. The following recommendations are intended to assist Malone with identifying, preserving and enhancing these important historic resources for years to come.

## a. Pursue Creation of an Historic District in the Village

The Village should continue to pursue the creation of a historic district in the Village with NYS Office of Parks, Recreation and Historic Preservation. Protection of the historic buildings and resources in the community is an important goal for Malone, and having the added support of an official historic designation will go a long way toward ensuring the preservation of Malone's historic structures.

The Village has completed an inventory of the major buildings in the Village Core and assessed each buildings overall condition, use and occupancy, the square footage, number of stories, building material, historic status, parking availability, and the adequacy of supporting infrastructure including sewer, water, gas, electric and cable. This information will be used by the Malone Chamber of Commerce and the Franklin County Industrial Development Agency to promote and advance the adaptive and creative reuse of buildings in the Village Core.

## b. Horton Grist Mill Rehabilitation

The Horton Grist Mill is currently owned by the Malone Revitalization Foundation and was the focus of a feasibility study that was completed in 2003. As part of the feasibility study an architect was hired to analyze the condition of the historic structure and provide preliminary plans for the rehabilitation of the mill. The analysis concluded that as a result of the partial collapse of the roof, collapsed masonry in the foundation, settling causing cracks in the load bearing masonry walls, and significant framing failures of the roof and floor the mill would need to be reconstructed. Reconstruction would require a dismantling of the structure, an architectural assessment of the potential reuse of materials, and an archeological survey before reconstruction could occur. The reconstructed mill will be built to incorporate contemporary code requirements and accessibility standards.

It is envisioned that the historic Horton Mill will be rehabilitated through a public/private partnership that will provide residents and visitors a local visitors' center, an outdoor café/restaurant and various shops. Overall, this will encourage the area to become a public destination providing the synergy for revitalization in the Village Core and connection to the improvements planned for the lands along the Salmon River adjacent to the Mill property.

## 4. Downtown Revitalization and Economic Development

## a. Downtown Revitalization

The look and feel of a community have as much impact on people as the activities, recreation, jobs and homes that a place has to offer. The health and vibrancy of a place like Malone, for both visitors and residents, are determined by the quality of the public spaces and the ways that the public and private spaces interact with one another. Malone has tremendous resources to build from, such as the dramatic scenery that the topography provides, the beautiful stock of historic buildings, and the river running through the downtown.

Sidewalks, trash cans, signage, landscaping and many other features of a community contribute to the quality of life and the visitor experience in that place. Malone would like to present the most positive and attractive aesthetic possible, and make the downtown a functional and fun space to be for everyone.

A targeted look at Malone's needs with regard to physical enhancements is needed, and a comprehensive Physical Enhancements Plan should be created for the Village Core. Such a plan would outline specific changes that could be made to uplift and beautify Malone's Main Street, while showing investment by the community that will in turn give private businesses and building owners the confidence to make their own investments as well. This plan would include recommendations for such items as benches and lighting, street trees and landscaping, sidewalks and street crossings, trash receptacles and signage, and other physical improvements to the Village Core streetscape.

The Malone Economic Development Corporation (MEDCO) was awarded a 2009 NYS Main Street Grant in the amount of \$200,000 from NYS Housing Trust Fund Corporation for streetscape and building renovation within a target area in the Village of Malone. The target area includes Main Street from Harrison Place to Pearl Streets. Proposed projects are being presented to the MEDCO Board and the group will move forward as desired. One critical aspect of preserving the historic and quaint nature of downtown areas like the Village of Malone is to ensure that new construction, as well as renovation of existing buildings, is sensitive to the existing character of the community. To achieve this desired outcome, the Village should incorporate commercial design standards for the Downtown Core.

The principal components of the desired development of Malone's downtown and waterfront area are the reuse of existing, architecturally significant building sites as places for recreational, residential and commercial activity. Where buildings exist that have been deemed beyond repair and need to be removed, replacement should be consistent in scale and in character with the adjacent buildings. Standards for development in the waterfront will be developed that address uses, access to the planned boardwalk, and design guidelines for architectural and façade styles, and public amenities.

The Design Guidelines will:

- Recommend appropriate architecture and urban design for downtown structures in keeping with the height, scale, density and character of the Village Core. Include welldesigned pedestrian amenities and gathering places.
- Work to make the downtown area more appealing by developing facade guidelines, making available design and technical assistance to landlords and shopkeepers.
- Encourage land owners with buildings with river access or river views to orient buildings to provide access and/or views to the Salmon River.
- Appearance of buildings should reflect the historic fabric of downtown area and avoid using architecture and colors not otherwise represented in the Village Core.

These standards can easily be modified to fit local needs. In addition, a demolition ordinance will be adopted to address present and future properties that are in a deteriorated condition and detract from the broader goals of the LWRP.

## b. Economic Development

The objective of this task is to gain an in-depth understanding of the primary markets and trade areas of the downtown that will be used to identify realistic opportunities for business investment, retail and business recruitment. The analysis will build on the Camoin Associates economic development study for Malone. In addition the findings will be used as a basis for promotional tools that articulate a competitive edge in the marketplace to attract visitors to Malone as a Regional Tourism Destination.

Information will be collected and analyzed on the following:

- A local and regional demographic and economic analysis will compile data in order to better understand local issues and trends in retailing, identify key market drivers, review plans for local property development, analyze competition between major retail centers and districts, and understand the demographic profile of trade area residents.
- An analysis of consumer spending will allow Malone to analyze consumer expenditures and retail market potential, understand its competitive position within the region, compile a market segmentation analysis, and review existing marketing activities in order to adopt an effective local plan.
- Through analysis of the tourism market profile, existing lodging opportunities, and the needs and expectations of visitors, a tourism market analysis will be completed.

In addition to the creation of a detailed market analysis, Malone should conduct a Consumer Intercept Survey. The survey will be used to understand when, where, why, how and for what people are shopping for, to understand their attitude toward downtown and how those attitudes affect shopping habits. While the survey instrument will be prepared by a planning consultant, it is assumed that Malone will collect the information by stopping a representative sample of downtown patrons on the street or at their point of purchase to fill out the survey. Lastly, Malone should compile an opportunities analysis to make recommendations on the retail, arts and entertainment mix needed to continue the revitalization of the Village Core.

## 5. Infrastructure, Municipal Laws and Services

## a. New Community Center

The development of a community center should be explored at the hockey arena. The building has the capacity to be expanded into a mixed-use building and the land is available to accommodate additional parking. There are several issues present, including building ownership; however, the property may present itself as an opportunity for a joint partnership between the public and private sector.

## b. Critical Environmental Area

The entire length of the Salmon River throughout the Town and Village should consider to be designated as a Critical Environmental Area (CEA) pursuant to SEQRA regulations 617.4(h). The intent of the law is to provide more detailed review, rather than specific protection, of

projects in the Waterfront Revitalization Area that contains or borders a significant natural resource. As such, the potential impact of any Type 1 or Unlisted Action in a Critical Environmental Area is a relevant area of concern and must be evaluated in the determination of significance prepared pursuant to SEQRA. The greatest impact of the CEA is potentially for the protection of viewsheds from within the Salmon River inside the Waterfront Overlay District.

## c. Salt, Sand and Snow Storage

An inventory of storage of salt, sand and snow storage areas in the WRA shall be evaluated in terms of its location sensitivity to the Salmon River. Should these areas be identified as polluting, a plan should be developed to relocate or otherwise mitigate the storage facility. Funding is available through the New York State Environmental Facilities Corporation (NYSEFC) to finance water pollution control projects including salt storage facilities.

## d. Upgrade Sewage Treatment Plant

Malone's Municipal Sewage Treatment Plant needs to be upgraded to eliminate combined stormwater outflows that are point sources of pollution into the Salmon River. This site should be audited to assess the deposits of contaminated soil, oil, hazardous waste and debris on and adjacent to the bank of the Salmon River. There are a number of grants that the NYS Environmental Facilities Corporation currently offers that will help finance improvements to the municipal sewage treatment plant as well as aquatic habitat restoration and pollution prevention. The Village Board has agreed to hire an engineer to analyze the plant for upgrades.

## e. LWRP Implementation Coordinator

The potential exists for the development of a position shared planning staff person for the Village and the Town. This person would be responsible for assisting the Village and Town in implementing the recommended programs and projects set forth in the LWRP, and in ensuring compliance with the LWRP management policies and standards. Funding from a future LWRP grant may be available to supplement local funding for this position.

## SECTION V LOCAL IMPLEMENTATION TECHNIQUES

## A. Introduction

The Malone LWRP must provide for the implementation of the policies, proposed uses and proposed program. Thorough consideration has been given especially to the implementation of the LWRP policies. Implementation measures have been established for each policy, which includes the standards set forth in the policy explanation. The implementation measures will describe the specific steps that must be taken to achieve the vision and desired redevelopment objectives. These actions will be categorized, described in priority order and include the short-term and long-term public and private actions.

Section V is separated into four main parts:

- Existing Land Use Laws and Regulations Necessary to Implement the LWRP Outlines the existing major local laws that are already in place that will serve as implementation tools for the LWRP.
- Additional Local Laws, Amendments to Existing Local Laws, and Regulations Adopted to Further LWRP Implementation - Describes the legal requirements to ensure that there is consistency among all projects falling within the jurisdiction of the waterfront revitalization boundary and establishes new or revised local actions that are recommended in order to implement the LWRP. These actions include such items as amendments to the zoning ordinance.
- Local Management Structure and Procedures for Reviewing Proposed Projects -Miscellaneous actions that are recommended for the community and other local entities to consider. The management structure is described, and illustrates who is going to carry out the various implementation measures contained in the LWRP.
- **Resources to Ensure Local Compliance** Discussion of the various financial tools that are potentially available to fund the projects listed in the LWRP.

## B. Existing Laws and Regulations Necessary to Implement the LWRP

Local laws and regulations are the basic means for enforcing the policies of the Malone LWRP. Enforcement of the policies of the LWRP will ensure that no action will occur to prevent the long-term best use of the waterfront or to interrupt the achievement of any of the policies or purposes of the LWRP. Before the NYS Department of State can approve the LWRP, these laws must be adopted by the Town and Village.

Following is a description of Local, State and Federal laws and regulations that will assist with the implementation of this LWRP.

## 1. Local Laws and Regulations

## a. Zoning Ordinances

The Zoning Codes of both the Town and Village of Malone will be critical in ensuring that development within the two communities takes place in accordance with the intentions of the municipalities and of this LWRP.

## b. Flood Damage Prevention

Chapter 24 of the Village Code addresses Flood Damage Prevention to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. Properties that have been identified within areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) must adhere to the regulations set forth in Chapter 24. Consistent with NYSDEC regulations, the following list represents some of the standards that are required for new construction or buildings that are substantially improved within the special flood hazard areas:

All new construction and substantial property improvements should be constructed in a manner which minimizes flood impact, including anchoring, appropriate building materials, and through other methods and practices that minimize potential damage. Manufactured homes should also be installed implementing these principles. When homeowners or homebuilders are installing new facilities (electrical systems, heating, plumbing, etc) into a home, they should be installed so as to prevent floodwaters from entering their components. Lastly, all subdivisions proposals should be submitted only if they respect the potential damages of floodwaters, can provide appropriate drainage, and are situated above a certain elevation (in cases of subdivisions with over 50 lots or 5 acres).

## c. Telecommunications Towers Regulations

The Town of Malone adopted an ordinance to provide for the establishment and/or expansion of wireless telecommunications services while protecting neighborhoods and minimizing the adverse visual and operational effects through careful design, siting and screening. This ordinance defines application procedures, siting preferences (including shared uses), standards, and review procedures for applications. One of the provisions is that no approval will be granted for structures proposed within 1,000 feet of the Adirondack Trail, Military Trail, Seaway Trail, and Salmon River shoreline.

## 2. State Laws and Regulations

## a. State Environmental Review (SEQR)

Any State or local agency that proposes to directly undertake or fund an action or has discretionary authority to approve an action, must comply with the requirements of the State Environmental Quality Review Act (SEQRA). A decision by an agency to deny, permit or conditionally permit, or financially support an action by other parties is subject to SEQR. By incorporating a systematic approach to environmental review early in planning stages, projects

can be modified if needed to avoid potentially adverse environmental impacts. The basic purpose of SEQR as expressed by the New York State Legislature is:

"...to declare a state policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and enhance the human and community resources; and to enrich the understanding of the ecological systems, natural, human and community resources important to the people of the state."

## 3. Federal Laws and Regulations

## a. FERC Licensing Agreements

The Federal Energy Regulatory Commission (FERC) requires a license to construct, operate, and maintain a non-federal hydroelectric project located on navigable water of the United States, and requires hydroelectric facilities to undergo a licensing process and renewal every 25-50 years dependent on the terms of the license. The dams on the Salmon River with the WRB are subject to the FERC requirements. When the license is up for renewal, hydroelectric companies must draft an Environmental Assessment or Environmental Impact Statement to review the project and environmental impacts. The following list describes the relicensing processes:

- Notice of application issued.
- Notice of Ready for Environmental Analysis issued.
- Federal and state agencies provide recommendations, terms and conditions.
- Issues Environmental Assessment or Environmental Impact Statement.
- Resolve issues and respond to comments.
- Issue Final Environmental Assessment or Environmental Impact Statement.
- Commission issues order.
- License compliance and administration/dam safety inspections.

FERC licenses require consultation with relevant federal, state and interstate resource agencies, affected Indian tribes, and the public on project design, the impact of the proposed project, reasonable hydropower alternatives, and required studies. Studies performed for licensing can address a number of subject areas, and usually evaluate engineering, economics, and environmental issues. License agreements often end in settlement agreements between the involved agencies or groups, which often include mitigation measures from the project.

The Macomb Dam (also known as the Macomb Project) filed a relicensing application in 2004. The settlement agreement reached for the Macomb Dam includes limiting daily impoundment fluctuations, maintaining a minimum flow downstream from the powerhouse, continued implementation of an Interim Sediment Management Plan, installation of appropriate spacing on the project trash-rack for fish protection, installation of a fish stocking tube, development of a stream flow and water level monitoring plan and development of a Historic Properties Management Plan (HPMP). Other provisions in the Settlement Agreement included enhancement of the existing boat launch on the Town of Malone property adjacent to the Macomb impoundment (Lamica Lake), and development of a hiking trail and parking area on property owned by Erie Boulevard Power Company (now owned by Brookfield Power Corporation).

## C. Additional Local Laws, Amendments to Existing Local Laws and Regulations Adopted to Further LWRP Implementation

## 1. Consistency Laws

The purpose of these new laws is to provide a framework and procedures for agencies of the Town and Village to consider the policies and purposes contained in the LWRP when reviewing applications for actions or direct agency actions located within the WRA and to assure that such actions are consistent with the policies and purposes of the LWRP. The Town of Malone Waterfront Consistency Review Law can be found in Appendix A and the Village of Malone Waterfront Consistency Review Law can be found in Appendix B.

These local laws establish consistency review procedures for Town and Village actions within the WRA in order to implement the LWRP. These local laws require each board, department, office, officer or other body of the Town and Village of Malone that actions to directly undertake, or to permit, fund or otherwise approve any project, use or activity within the WRA be consistent to the maximum extent practicable with the State and local policies set forth in the Local Waterfront Revitalization Program. To this end, the LWRP Consistency Review Laws establish procedures for:

- 1. Initial review of proposed actions in a manner compatible with requirements of the State Environmental Quality Review Act (SEQRA), Title 6, Part 617 NYCRR.
- 2. Advisement and assistance to applicants (if involved) and/or the boards, the departments, offices, officers, or other bodies of the Town and Village involved regarding forms, procedures, etc.

## 2. Water Quality Initiatives

## Waterfront Overlay District

The new Waterfront Overlay District laws are a special layer of zoning regulations that apply only to properties within the LWRP boundary. This overlay district laws regulate shoreline distances, cutting restrictions, buffering, plantings, allowed land uses and any other issues pertinent to protection of the Salmon River from adverse impacts of development. The Town of Malone Waterfront Overlay District is included in Appendix C and the Village of Malone Waterfront Overlay District is included in Appendix D. The area addressed by the overlay district laws are described in Figure V-1 and Figure V-2.

## Local Law for Stormwater Management, Sedimentation and Erosion Control

Given the community's interest in preserving the waterfront in a recreation-friendly state, the LWRP emphasizes control of the sedimentation sources in order to protect and enhance water quality as a high priority. The establishment of a local law for stormwater management is

therefore a key component of the Local Waterfront Revitalization Program. The Town of Malone Stormwater Management and Erosion and Sediment Control Law is included in Appendix E and the Village of Malone Stormwater Management and Erosion and Sediment Control Law is included in Appendix F.

## D. Local Management Structure and Procedures for Reviewing Proposed Projects

Discussion of the various financial tools that are potentially available to fund the projects listed in the LWRP.

The complexity of implementing the LWRP will require the involvement of several agencies, boards, and individual officials. Effective coordination of LWRP implementation requires that, in addition to designating a lead agency for consistency review, specific responsibilities are identified and assigned wherever possible. A summary of functional assignments, including the newly established LWRP Implementation Coordinator position, are listed below:

## Village Positions

*Mayor:* Provide overall supervision and management of LWRP implementation projects and programs.

*Village Board of Trustees:* Execute LWRP program responsibilities, in coordination with Mayor, for such items as coordination with volunteer and private organizations and local government cooperation.

*Village Clerk:* Handle correspondence, communications and record keeping for Village government actions pertaining to the implementation of the LWRP.

*Village Treasurer:* Serve as chief fiscal officer in providing fiscal management for Village government actions pertaining to the LWRP.

*Village Building Inspector:* Provide initial review of proposed coastal area development proposals to determine compliance with the Village zoning ordinance, work with Village Planning Board and other Village agencies in expediting all necessary reviews, issue permits, and enforce zoning ordinance.

*Director of Public Works:* Manage, maintain and operate all public works and physical properties pertaining to the coastal area.

*Director of Parks and Recreation:* Provide assistance to Manager and Board of Trustees in planning and executing recreational programs and development of recreational facilities pertaining to the waterfront.

*Village Planning Board:* Provide assistance to the Waterfront Advisory Council as part of the local consistency review of proposed actions within the waterfront area. Review and approve site plans and subdivisions within the waterfront area.

*Village Zoning Board of Appeals:* Hear and render decisions on variances, special permits, and appeals from any requirement or determination made by the Village agencies pertaining to the coastal area.

## **Town Positions**

*Supervisor:* Provide overall supervision and management of LWRP implementation projects and programs.

*Town Board:* Execute LWRP program responsibilities, in coordination with Supervisor, for such items as coordination with volunteer and private organizations and local government cooperation. Review and approve proposed site plans for new development within the waterfront area.

*Town Clerk:* Handle correspondence, communications and record keeping for Town government actions pertaining to the implementation of the LWRP.

*Town Treasurer:* Serve as chief fiscal officer in providing fiscal management for Town government actions pertaining to the LWRP.

*Town Building Inspector:* Provide initial review of proposed coastal area development proposals to determine compliance with the Town zoning ordinance, work with Town Planning Board and other Town agencies in expediting all necessary reviews, issue permits, and enforce zoning ordinance.

*Director of Public Works:* Manage, maintain, and operate all public works and physical properties pertaining to the coastal area.

*Town Planning Board:* Provide assistance to the Waterfront Advisory Council as part of the local consistency review of proposed actions within the waterfront area. Review and approve site plans and subdivisions within the waterfront area.

*Town Zoning Board of Appeals:* Hear and render decisions on variances, special permits, and appeals from any requirement or determination made by the Town agencies pertaining to the coastal area.

## **Shared Positions**

*Waterfront Advisory Council:* Responsible for conducting the local consistency review of proposed actions within the waterfront area. Provide advice and assistance to the Town and Village boards and the public in prioritizing program projects and activities; and provide input to the Town and Village boards on the compatibility of activities in the waterfront area with LWRP policies and objectives.

*Malone Recreation Commission:* Serve in an advisory capacity to the Director of Parks and Recreation in planning and executing recreational programs and development of recreational facilities pertaining to the waterfront and downtown area.

*Malone Chamber of Commerce:* Coordinate merchant and private sector involvement in the LWRP, assist in soliciting donations for smaller waterfront projects, and promote public and private interest and support for revitalization activities.

## **E. Resources to Ensure Local Compliance**

LWRP compliance procedures are distinct but integrally tied to the State Environmental Quality Review (SEQR) procedures. Under the direction of the Planning Board, lead agency in LWRP consistency reviews, all Town and Village agencies contemplating a direct action or receiving an application for approval of an action by others shall follow review and certification procedures set forth in the local consistency laws. The laws require that Town and Village agencies refer actions to the Planning Board to be evaluated for consistency with the LWRP policy standards and conditions which are set forth in the Policies - Section III of the LWRP. The Planning Board, after conferring with the agency, then renders a written recommendation indicating whether or not the action is consistent or not with the LWRP, along with suggested modifications to such action if it is deemed necessary.

## F. Financial Resources Necessary to Fund the Projects and Programs in the LWRP

There are three main funding implications associated with implementation of the LWRP. These are the administrative costs involved in the continued local management of the LWRP, the capital and revenue costs involved in project implementation and the costs related to maintenance and upkeep of projects.

Management costs associated with the administration of the LWRP are minimal, however, must be budgeted by the Village and Town and financed out of general revenues. This involves creating a separate budget item for the administration of the LWRP to cover the costs of consistency reviews, fulfilling reporting requirements, and general administrative and clerical needs.

The second funding implication is the capital and revenue costs involved in project implementation. The Village and Town have identified a number of LWRP projects designed to address and implement many of the LWRP Policies identified in Section III. These projects are discussed in detail in Section IV. The Malone Recreation Commission Fund is an additional source for implementation.

Maintenance and upkeep of LWRP improvements will vary from year to year depending on the types of materials chosen during design and construction, and normal wear and tear from weather. Costs will be built into the Town and Village annual budgets.

Although the Town and Village will need to take the lead in achieving the implementation of these projects, it is unlikely that the Town and Village will be able to provide the necessary financial resources to implement any of these projects without seeking financial assistance from other entities or as part of a public/private partnership.

Possible sources of funding include the NYS Department of State, NYS Environmental Protection Fund, the NYS Clean Water/Clean Air Bond Act, and the New York State Council on the Arts, with local matches from the Town and Village in the form of money and/or in-kind services. Local sponsorship of projects should be sought from the local business community. The

Village and Town will work closely with the New York State Department of State Division of Coastal Resources and Waterfront Revitalization to identify possible funding sources.

A key element in the building of successful implementation partnerships is the availability of a local match from the Town and Village. This match is essential in leveraging public or private sector money. The local match generally can take a number of forms, including funding by the Town and Village, the provision of materials or Town and Village public works labor, and the monetary value of volunteer and staff time. It is also advantageous to try to link LWRP project implementation to other capital improvement work that is going on within the Village, such as a development proposal or public water supply project, stretching the benefits of limited public funds and achieving multiple objectives. In terms of providing a monetary match, the Town and Village Boards should set up a budget item that would dedicate funds for the implementation of LWRP projects. This item could be used to fund small-scale projects, parts of projects, or a partial cash match for project grants.

The Town and Village should evaluate the requirements necessary to obtain funds from a variety of existing environmental response and economic development programs. Some of the available grant programs require a percentage contribution from the Town and Village. Primary available government funding programs are listed in the following table:

	FUNDING AGENCY	PROGRAM	ASSISTANCE TYPE	PURPOSE
Federal	Department of Commerce, Economic Development Agency	ED grants for Public Works And Infrastructure Development	Up to 80% of a project in severely distressed areas.	Project grants to promote long-term economic development and assist in the construction of public works and development facilities.
	Department of Housing and Urban Development	Section 108 Loan *	Loan guarantees	Assist in economic development, housing rehabilitation, public facilities, and large-scale development projects.
		Economic Development Initiative (EDI)	Grants awarded in connection with Section 108 Loans.	Grants to further subsidize Section 108 Loan projects.
		Brownfield Economic Development Initiative (BEDI)	Grants awarded in connection with Section 108 Loans.	EDI-type grant assistance to help redevelop sites complicated by environmental contamination.
	Department of Agriculture	Business & Industry (B&I) Loan Guarantees	Guarantees up to 80% of a loan made by a commercial lender. May be used for working capital, machinery and equipment, buildings and real estate, & defined types of debt financing. (Maximum aggregate amount to any one borrower: \$25 million)	Create and maintain employment and improve the economic climate in rural areas. Rural areas include all areas other than cities of more than 50,000 pop. and their immediately adjacent urban or urbanizing areas.
		Business & Industry (B&I) Direct Loans	Loans to public entities and private parties who cannot obtain credit from other sources. loans to private parties can be made for improving, developing, or financing business and industry, creating jobs and improving the economic and environmental elimate in rural communities. (including pollution abatement) (Maximum aggregate loan amount to any one borrower: \$10 Million)	Create and maintain employment and improve the economic climate in rural communities.
		Intermediary Relendeing Program Loans	RBS lends funds to intermediaries, (i.e. public bodies, nonprofit coops) which, in turn, provide loans to recipients.	Loans to finance business facilities and community development projects in rural areas, including cities w/a Pop. < 25,000
	Rural Business Enterprise Grants	Direct Grant	Finance and facilitate development of small and emerging private business enterprises located in rural areas. Can be used for both hard and soft costs.	
		Rural Business Opprotunity Grants	Direct Grant. Nonprofit and public bodied eligible. Maximum of \$1.5 million per grant is authorized by legislation.	Funding for technical assistance, training, & planning activities tha improve economic conditions in rural areas.
		Community Facilities	Loan / Grant	Designed to facilitate the development of essential community facilities and services in rural areas (20,000)

#### FUNDING SOURCES APPROPRIATE FOR THE TOWN AND VILLAGE OF MALONE LOCAL WATERFRONT REVITALIZATION PROGRAM

FUNDING	DDOCD 414	ASSISTANCE	NTDOGU
AGENCY	PROGRAM	TYPE	PURPOSE
Federal Small Business Admi	nistration 7 (A) Loan Guaranty Program	The maximum amount the SBA can guaranty is generally \$2,000,000. Guaranty can be up to 85% of loans of \$150,000 or less, and up to 75% of loans above \$150,000. Express loans can be up to 50% of \$2,000,000.	Loans can be used for most business purposes including, but not limited to, purchase of real estate; construction; renovation or leasehold improvements; acquisition of furniture, fixtures, machinery, and equipment; purchase of inventory; working capital.
	LowDoc Loan Program	Loan. Max amount \$100,000	Loans can be used for most business purposes including, but not limited to, purchase of real estate; construction; renovation or leasehold improvements; acquisition of furniture, fixtures, machinery, and equipment; purchase of inventory; working capital. Designed to increase the availability of loans under \$100,000
	Certified Development Company (504) Loan Program	Senior lien from a private sector lender: 50%; junior lien: 40%. Contribution of at least 10% equity. Must create or retain one job for every \$50,000.	Provides growing businesses with long-term, fixed-rate financing for major fixed assets, such as land and buildings.
	Short Term Loans and Revolving Lines of Credit CAP Lines Loan Program	Can be for any dollar amount (except for the Small Assess-Based Line). The interest rate can be up to 2.5% over prime.	Umbrella program which helps business meet their short-term and cyclical working capital needs. There are 5 programs: Seasonal Line; Contract Line; Builders Line; Standard Assets-Based Line; Small Assets-Based Line.
	International Trade Loans	Can guaranty as much as \$1,250,000 in combined working capital and facilities-and- equipment loans. Applicant must establish that the loan will significantly expand or develop an export market.	For business engaged in, or preparing to engage in, international trade, or are adversely affected by competition from imports.
	Export Working Capital Program	Loan requests of \$1,111,111 or less processed by the SBA, requests over \$1,111,111 processed by Ex-Im Bank.	Designed to provide short-term working capital to exporters. combined effort involving SBA and Ex-Im Bank.
	Pollution Control Loan Program	Guarantee up to \$1,000,000	Intended to provide loan guarantees to eligible small business for the financing of the planning, design, or installation of a pollution control facility.
	Qualified Employee Trusts Loan Program	The maximum amount the SBA can guaranty is generally \$2,000,000. Guaranty can be up to 85% of loans of \$150,000 or less, and up to 75% of loans above \$150,000. Express loans can be up to 50% of \$2,000,000.	Objective is to provide financial assistance to Employee Stock Ownership Plans. Trust must be part of a plan sponsored by the employer company and qualified under IRS regs.

	FUNDING		ASSISTANCE	
	AGENCY	PROGRAM	TYPE	PURPOSE
Federal	Small Business Administration (cont.)	Micro Loan Program	Depending on the earnings of the business, loan maturity may be as long as 6 years. Rates are no more than 4% over prime. SBA makes funds available to nonprofit intermediaries, who make loans in the amount that range from under \$100 to a max of \$35,000.	Developed to increase the availability of very small loans to business borrowers.
		TODODI		
State	Empire State Development Corp.	JOBS Now		Provides financial assistance to projects that involve the expansion of an eligible business within the State or the attraction of a business that will result in the creation of 300 new, permanent, full-time jobs. (Retention does not count)
5.		1. Job Creation Grants	Direct Grants	Used to defray state and/or local tax liability.
		2. Worker Training Grants	Direct Grants	Offset costs of worker retraining programs that focus on new hire training, recruitment, skills upgrading, productivity enhancement and total product/service quality enhancement.
		3. Capital Loans & Grants	Loan and/or grant with interest rate not Lower than 3%.	For purposes of infrastructure upgrades (e.g., access roads, water/sewer lines, site prep. Etc.) as well as the acquisition of land, buildings, machinery & equipment and related soft costs.
		4. Interest Subsidy Grants	Not to reduce the debt service costs to less Than 3%.	Designed to offset debt service costs associated with loans made to businesses by private lending institutions.
		5. Working Capital Loans and Loan Guarantees	Limited to no more than 60% of the loan being guaranteed.	Made to businesses undertaking projects to finance expenses such as accounts receivable and inventory.
		Economic Development Fund		Designed to provide flexible assistance for projects that promote the economic health of NYS by facilitating the creation and/or retention of jobs and the increase of business activity in the state.
		1. General Development Financing	Loans and loan guarantees:>\$75,000 and <\$ 2.0 Million Int. subsidy grants>\$75,000 and <\$500,000 and reduced loans for up to 5 years.	Used for the purposes of new construction, renovation, leasehold improvements acquisition of land, buildings and machinery and soft costs.
		2. Federal & Urban Site Dev. Financing	Loans and loan guarantees:>\$75,000 and not to exceed 50% of project costs. Grants>\$25,000 and <\$100,000	Used for the purposes of new construction, renovation, leasehold improvements acquisition of land, buildings and machinery and soft costs.
		3. Infrastructure Development Financing	Loans and guarantees:>\$10,000 and <\$500,000. Loans between 40% and 50% of the total ESDC assistance and the balance shall be in the form of a grant.	For the development of basic infrastructure site improvements and related soft costs.
		4. Regional and Economic Industry Planning Studies and Economic Development	Grants not to exceed \$50,000 with a 10% match	For preparation of strategic plans, analysis of business sectors, marketing and promoting regional business clusters, feasibility studies, planning for new enterprise development and identification of new business opportunities.

	FUNDING AGENCY	PROGRAM	ASSISTANCE TYPE	PURPOSE
State	Empire State Development Corp. (cont.)	5. Commercial Area Development Financing	Loans, loan guarantees and grants. Planning- >\$25,000 and <\$100,000. For construction - >\$75,000 and <\$1,000,000.	Assistance for projects whose purpose is to improve commercial buildings, commercial strips, downtown areas and business districts.
		Small Cities Community Development Block Grants (CDBG)	Grants awarded on city-by-city basis.	Economic and community development for low/moderate income benefit. Program includes: infrastructure development, technical assistance/training and revolving loan funds.
		JDA Rural Loan Fund		Funding programs specifically for rural counties in NYS.
		1. Rural Loan Fund	Loans and working capital. Loans up to 20% of project costs with a cap of \$50,000. Int. rate +Prime minus 3% with a cap of 10% and a floor of 5%.	For manufacturing and non-retail service companies located in rural NY for the acquisition of fixed assets as well as working capital.
		2. Rural Area Development Fund.	Loans up to 90% of project costs with cap of \$90,000 per project.	For expanding businesses in rural counties with an agricultural component.
		3. Direct Loan Program	Fixed and variable rate loans.	To provide financing for growth of manufacturing and other private business in NYS. Funds can be used for machinery and equipment and second mortgage loans.
		4. Enhanced SBA 504 Loans	Fixed and variable rate loans (can be combined with interest rate subsidy grants).	Program offers small to medium sized businesses in NYS greate access to long-term fixed asset financing.
	Department of Transportation	Industrial Access Program	60% grant and 40% loan	Funds available for industrial access highway and bridge transportation improvements that result in the creation or retention of jobs.
		Transportation Equity Act For the 21 <sup>st</sup> Century	Reimbursable program up to 80% of the eligible project costs.	Provides funding for non-traditional projects that add value to the surrounding transportation system.
	Department of Environmental Conservation	Voluntary Remediation Program	Technical Assistance	Assist communities with the clean-up of brownfield sites for redevelopment.
		Clean Water/Clean Air Environmental Bond Act	Funds and grants.	Breakdown: municipal water supply systems, water quality improvement, open space, for parks, municipally run small business environmental compliance to enhance water quality, solid waste, municipal site restoration, and clean air projects.
	Department of State	Environmental Protection Act	Grant. 50% match	Historic preservation, parks and recreation.
		Rural New York Grant Program	Grant	Up to \$5,000 for historic resource surveys, public education and planning and design studies
	NYS Council on the Arts	Community Grant	Grant.	Up to \$10,000 for planning efforts, historic preservation, and cultural programs.

	FUNDING AGENCY	PROGRAM	ASSISTANCE TYPE	PURPOSE
County	Industrial Development Agency (cont.)	Industrial Development Bond – Tax Exempt/Taxable	Bonds, Revolving Loan Fund, and Microenterprise Loan Fund	Manufacturing and some civic facility projects. Land, building acquisition, renovation, construction, new machinery and equipment.

## **Private Sector Sources**

tor sources			
National Trust for Historic	Various Programs	Grants and loans	Historic Renovation Projects
Preservation			
Trust for Public Land	Various Programs	Grants and loans, technical assistance	Open space protection
Kellog Foundation	Various Programs	Grants	Economic development, environmental affairs, urban & community affairs, among others.
Ford Foundation	Various Programs	Grants	Economic development, environmental affairs, urban & community affairs, among others.
The Waterfront Development Center	Various Programs	Grants and technical assistance	Waterfront and waterfront related development
New York State Council on the Art	<ul> <li>Architecture and Environmental Arts Programs and Planning Projects</li> </ul>	Grants and technical assistance	Various arts related projects

# SECTION VI: STATE AND FEDERAL ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION

State actions will affect and be affected by implementation of the LWRP. Under State law and the U.S. Coastal Zone Management Act, certain State actions within or affecting the local waterfront area must be "consistent" or "consistent to the maximum extent practicable" with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. At the same time, the active participation of State agencies is also likely to be necessary to implement specific provisions of the LWRP.

The first part of this section identifies the actions and programs of State agencies that should be undertaken in a manner consistent with the LWRP. This is a generic list of actions and programs, as identified by the NYS Department of State; therefore, some of the actions and programs listed may not be relevant to this LWRP. Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State individually and separately notifies affected State agencies of those agency actions and programs that are to be undertaken in a manner consistent with approved LWRP. The list of State actions and programs included herein are informational only and do not represent or substitute for the required identification and notification procedures. The current official lists of actions subject to State and federal consistency requirements may be obtained from the NYS Department of State.

The second part of this section is a more focused and descriptive list of State agency actions that are necessary to further implementation of the LWRP. It is recognized that a State agency's ability to undertake such actions is subject to a variety of factors and considerations; that the consistency provisions referred to above, may not apply; and that the consistency requirements cannot be used to require a State agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section IV and Section V, which also discuss State assistance needed to implement the LWRP.

## A. State Actions and Programs to be Undertaken in a Manner Consistent with the LWRP

## **OFFICE FOR THE AGING**

1.00 Funding and/or approval programs for the establishment of new or expanded facilities providing various services for the elderly.

## DEPARTMENT OF AGRICULTURE AND MARKETS

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Farm Worker Services Programs
- 4.00 Permit and approval programs:
  - 4.01 Custom Slaughters/Processor Permit

- 4.02 Processing Plant License
- 4.03 Refrigerated Warehouse and/or Locker Plant License

## DIVISION OF ALCOHOLIC BEVERAGE CONTROL/STATE LIQUOR AUTHORITY

- 1.00 Permit and Approval Programs:
  - 1.01 Ball Park Stadium License
  - 1.02 Bottle Club License
  - 1.03 Bottling Permits
  - 1.04 Brewer's Licenses and Permits
  - 1.05 Brewer's Retail Beer License
  - 1.06 Catering Establishment Liquor License
  - 1.07 Cider Producer's and Wholesaler's Licenses
  - 1.08 Club Beer, Liquor and Wine Licenses
  - 1.09 Distiller's Licenses
  - 1.10 Drug Store, Eating Place and Grocery Store Beer Licenses
  - 1.11 Farm Winery and Winery Licenses
  - 1.12 Hotel Beer, Wine and Liquor Licenses
  - 1.13 Industrial Alcohol Manufacturer's Permits
  - 1.14 Liquor Store License
  - 1.15 On-Premises Liquor Licenses
  - 1.16 Plenary Permit (Miscellaneous-Annual)
  - 1.17 Summer Beer and Liquor Licenses
  - 1.18 Tavern/Restaurant and Restaurant Wine Licenses
  - 1.19 Vessel Beer and Liquor Licenses
  - 1.20 Warehouse Permit
  - 1.21 Wine Store License
  - 1.22 Winter Beer and Liquor Licenses
  - 1.23 Wholesale Beer, Wine and Liquor Licenses

## DIVISION OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES

- 1.00 Facilities, construction, rehabilitation, expansion, demolition or the funding of such activities
- 2.00 Permit and approval programs:
  - 2.01 Certificate of approval (Substance Abuse Services Program)
- 3.00 Permit and approval:
  - 3.01 Letter Approval for Certificate of Need
  - 3.02 Operating Certificate (Alcoholism Facility)
  - 3.03 Operating Certificate (Community Residence)
  - 3.04 Operating Certificate (Outpatient Facility)
  - 3.05 Operating Certificate (Sobering-Up Station)

## COUNCIL ON THE ARTS

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities

#### 2.00 Architecture and environmental arts program

## **DEPARTMENT OF BANKING**

- 1.00 Permit and approval programs:
  - 1.01 Authorization Certificate (Bank Branch)
  - 1.02 Authorization Certificate (Bank Change of Location)
  - 1.03 Authorization Certificate (Bank Charter)
  - 1.04 Authorization Certificate (Credit Union Change of Location)
  - 1.05 Authorization Certificate (Credit Union Charter)
  - 1.06 Authorization Certificate (Credit Union Station)
  - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
  - 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
  - 1.09 Authorization Certificate (Investment Company Branch)
  - 1.10 Authorization Certificate (Investment Company Change of Location)
  - 1.11 Authorization Certificate (Investment Company Charter)
  - 1.12 Authorization Certificate (Licensed Lender Change of Location)
  - 1.13 Authorization Certificate (Mutual Trust Company Charter)
  - 1.14 Authorization Certificate (Private Banker Charter)
  - 1.15 Authorization Certificate (Public Accommodation Office Banks)
  - 1.16 Authorization Certificate (Safe Deposit Company Branch)
  - 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
  - 1.18 Authorization Certificate (Safe Deposit Company Charter)
  - 1.19 Authorization Certificate (Savings Bank Charter)
  - 1.20 Authorization Certificate (Savings Bank De Novo Branch Office)
  - 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
  - 1.22 Authorization Certificate (Savings and Loan Association Branch)
  - 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
  - 1.24 Authorization Certificate (Savings and Loan Association Charter)
  - 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
  - 1.26 Authorization Certificate (Trust Company Branch)
  - 1.27 Authorization Certificate (Trust Company-Change of Location)
  - 1.28 Authorization Certificate (Trust Company Charter)
  - 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
  - 1.30 Authorization to Establish a Life Insurance Agency
  - 1.31 License as a Licensed Lender
  - 1.32 License for a Foreign Banking Corporation Branch

## OFFICE OF CHILDREN AND FAMILY SERVICES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities
- 2.00 Homeless Housing and Assistance Program
- 3.00 Permit and approval programs:
  - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
  - 3.02 Operating Certificate (Children's Services)
  - 3.03 Operating Certificate (Enriched Housing Program)

- 3.04 Operating Certificate (Home for Adults)
- 3.05 Operating Certificate (Proprietary Home)
- 3.06 Operating Certificate (Public Home)
- 3.07 Operating Certificate (Special Care Home)
- 3.08 Permit to Operate a Day Care Center

#### DEPARTMENT OF CORRECTIONAL SERVICES

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities

## DORMITORY AUTHORITY OF THE STATE OF NEW YORK

- 1.00 Financing of higher education and health care facilities
- 2.00 Planning and design services assistance program

## EMPIRE STATE DEVELOPMENT/EMPIRE STATE DEVELOPMENT CORPORATION

- 1.0 Preparation or revision of statewide or specific plans to address State economic development needs
- 2.00 Allocation of the state tax-free bonding reserve

## EDUCATION DEPARTMENT

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities
- 2.00 Permit and approval programs:
  - 2.01 Certification of Incorporation (Regents Charter)
  - 2.02 Private Business School Registration
  - 2.03 Private School License
  - 2.04 Registered Manufacturer of Drugs and/or Devices
  - 2.05 Registered Pharmacy Certificate
  - 2.06 Registered Wholesale of Drugs and/or Devices
  - 2.07 Registered Wholesaler-Repacker of Drugs and/or Devices
  - 2.08 Storekeeper's Certificate

## NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

1.00 Issuance of revenue bonds to finance pollution abatement modifications in powergeneration facilities and various energy projects

## DEPARTMENT OF ENVIRONMENTAL CONSERVATION

1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department

- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities
- 4.00 Financial assistance/grant programs:
  - 4.01 Capital projects for limiting air pollution
  - 4.02 Cleanup of toxic waste dumps
  - 4.03 Flood control, beach erosion and other water resource projects
  - 4.04 Operating aid to municipal wastewater treatment facilities
  - 4.05 Resource recovery and solid waste management capital projects
  - 4.06 Wastewater treatment facilities
- 5.00 Funding assistance for issuance of permits and other regulatory activities (New York City only)
- 6.0 Implementation of the Environmental Quality Bond Act of 1972, including:
  - (a) Water Quality Improvement Projects
  - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects
- 7.00 Marine Finfish and Shellfish Programs
- 8.00 New York Harbor Drift Removal Project
- 9.00 Permit and approval programs:

Air Resources

- 9.01 Certificate of Approval for Air Pollution Episode Action Plan
- 9.02 Certificate of Compliance for Tax Relief Air Pollution Control Facility
- 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
- 9.04 Permit for Burial of Radioactive Material
- 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 9.06 Permit for Restricted Burning
- 9.07 Permit to Construct: a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

Construction Management

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9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities
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Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to Breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell Trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses

- 9.20 Taxidermy License
- 9.21 Permit Article 15, (Protection of Water) Dredge or Deposit Material in a Waterway
- 9.22 Permit Article 15, (Protection of Water) Stream Bed or Bank Disturbances
- 9.23 Permit Article 24, (Freshwater Wetlands) outside the Adirondack Park

#### Hazardous Substances

- 9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 9.26 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish

#### Lands and Forest

- 9.27 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 9.28 Floating Object Permit
- 9.29 Marine Regatta Permit
- 9.30 Navigation Aid Permit

#### Marine Resources

- 9.31 Digger's Permit (Shellfish)
- 9.32 License of Menhaden Fishing Vessel
- 9.33 License for Non-Resident Food Fishing Vessel
- 9.34 Non-Resident Lobster Permit
- 9.35 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
- 9.36 Permits to Take Blue-Claw Crabs
- 9.37 Permit to Use Pond or Trap Net
- 9.38 Resident Commercial Lobster Permit
- 9.39 Shellfish Bed Permit
- 9.40 Shellfish Shipper's Permits
- 9.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
- 9.42 Permit Article 25, (Tidal Wetlands)

## Mineral Resources

- 9.43 Mining Permit
- 9.44 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)
- 9.45 Underground Storage Permit (Gas)
- 9.46 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)

#### Solid Wastes

- 9.47 Permit to Construct and/or Operate a Solid Waste Management Facility
- 9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

#### Water Resources

- 9.49 Approval of Plans for Wastewater Disposal Systems
- 9.50 Certificate of Approval of Realty Subdivision Plans
- 9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)

- 9.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
- 9.53 Permit Article 36, (Construction in Flood Hazard Areas)
- 9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.55 State Pollutant Discharge Elimination System (SPDES) Permit
- 9.56 Approval -Drainage Improvement District
- 9.57 Approval Water (Diversions for) Power
- 9.58 Approval of Well System and Permit to Operate
- 9.59 Permit Article 15, (Protection of Water) Dam
- 9.60 Permit Article 15, Title 15 (Water Supply)
- 9.61 River Improvement District Approvals
- 9.62 River Regulatory District Approvals
- 9.63 Well Drilling Certificate of Registration
- 9.64 401 Water Quality Certification
- 9.64 Flood Control Article 16
- 10.00 Preparation and revision of Air Pollution State Implementation Plan
- 11.00 Preparation and revision of Continuous Executive Program Plan
- 12.00 Preparation and revision of Statewide Environmental Plan
- 13.00 Protection of Natural and Man-made Beauty Program
- 14.00 Urban Fisheries Program
- 15.00 Urban Forestry Program
- 16.00 Urban Wildlife Program

## ENVIRONMENTAL FACILITIES CORPORATION

1.00 Financing program for pollution control facilities for industrial firms and small businesses

## FACILITIES DEVELOPMENT CORPORATION

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities

## OFFICE OF GENERAL SERVICES

- 1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land and grants of easement of land under water, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development
- 2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance
- 3.00 Facilities construction, rehabilitation, expansion, or demolition
- 4.00 Administration of Article 5, Section 233 of the Education Law on the removal of archaeological objects under the waters of the State

5.00 Administration of Article 3, Section 32 of the Navigation Law regarding location of structures in or on navigable waters

## **DEPARTMENT OF HEALTH**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities
- 2.00 Permit and approval programs:
  - 2.01 Approval of Completed Works for Public Water Supply Improvements
  - 2.02 Approval of Plans for Public Water Supply Improvements
  - 2.03 Certificate of Need (Health Related Facility except Hospitals)
  - 2.04 Certificate of Need (Hospitals)
  - 2.05 Operating Certificate (Diagnostic and Treatment Center)
  - 2.06 Operating Certificate (Health Related Facility)
  - 2.07 Operating Certificate (Hospice)
  - 2.08 Operating Certificate (Hospital)
  - 2.09 Operating Certificate (Nursing Home)
  - 2.10 Permit to Operate a Children's Overnight or Day Camp
  - 2.11 Permit to Operate a Migrant Labor Camp
  - 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
  - 2.13 Permit to Operate a Service Food Establishment
  - 2.14 Permit to Operate a Temporary Residence/Mass Gathering
  - 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
  - 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
    - 2.17 Shared Health Facility Registration Certificate

## DIVISION OF HOMES AND COMMUNITY RENEWAL and its subsidiaries and affiliates

- 1.00 Facilities construction, rehabilitation, expansion or demolition
- 2.00 Financial assistance/grant programs:
  - 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
  - 2.02 Housing Development Fund Programs
  - 2.03 Neighborhood Preservation Companies Program
  - 2.04 Public Housing Programs
  - 2.05 Rural Initiatives Grant Program
  - 2.06 Rural Preservation Companies Program
  - 2.07 Rural Rental Assistance Program
  - 2.08 Special Needs Demonstration Projects
  - 2.09 Urban Initiatives Grant Program
  - 2.10 Urban Renewal Programs
- 3.00 Preparation and implementation of plans to address housing and community renewal needs

## HOUSING FINANCE AGENCY

- 1.00 Funding programs for the construction, rehabilitation, or expansion of facilities.
- 2.00 Affordable Housing Corporation

#### JOB DEVELOPMENT AUTHORITY

1.00 Financing assistance programs for commercial and industrial facilities.

## MEDICAL CARE FACILITIES FINANCING AGENCY

1.00 Financing of medical care facilities.

#### **OFFICE OF MENTAL HEALTH**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Operating Certificate (Community Residence)
  - 2.02 Operating Certificate (Family Care Homes)
  - 2.03 Operating Certificate (Inpatient Facility)
  - 2.04 Operating Certificate (Outpatient Facility)

## OFFICE OF PEOPLE WITH DEVELOPMENTAL DISABILITIES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Establishment and Construction Prior Approval
  - 2.02 Operating Certificate Community Residence
  - 2.03 Outpatient Facility Operating Certificate

## DIVISION OF MILITARY AND NAVAL AFFAIRS

- 1.00 Preparation and implementation of the State Disaster Preparedness Plan.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or funding of such activities

## NATURAL HERITAGE TRUST

1.00 Funding program for natural heritage institutions.

# **OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION** (including Regional State Park Commission)

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities

- 3.00 Funding program for recreational boating, safety and enforcement
- 4.00 Funding program for State and local historic preservation projects
- 5.00 Land and Water Conservation Fund programs
- 6.00 Nomination of properties to the Federal and/or State Register of Historic Places
- 7.00 Permit and approval programs:
  - 7.01 Floating Objects Permit
    - 7.02 Marine Regatta Permit
    - 7.03 Navigation Aide Permit
    - 7.04 Posting of Signs Outside State Parks
- 8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes
- 9.00 Recreation services program
- 10.00 Urban Cultural Parks Program

## POWER AUTHORITY OF THE STATE OF NEW YORK

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority
- 2.00 Facilities construction, rehabilitation, expansion, or demolition

## NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION

- 1.00 Corporation for Innovation Development Program
- 2.00 Center for Advanced Technology Program

## DEPARTMENT OF STATE

- 1.00 Appalachian Regional Development Program
- 2.00 Coastal Management Program
- 3.00 Community Services Block Grant Program
- 4.00 Permit and approval programs:
  - 4.01 Billiard Room License
  - 4.02 Cemetery Operator
  - 4.03 Uniform Fire Prevention and Building Code

## STATE UNIVERSITY CONSTRUCTION FUND

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities

#### STATE UNIVERSITY OF NEW YORK

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities

## DEPARTMENT OF TRANSPORTATION

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including but not limited to:
  - (a) Highways and parkways
  - (b) Bridges on the State highways system
  - (c) Highway and parkway maintenance facilities
  - (d) Rail facilities
- 3.00 Financial assistance/grant programs:
  - 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
  - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg and New York
  - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
  - 3.04 Subsidies program for marginal branch lines abandoned by Conrail
  - 3.05 Subsidies program for passenger rail service
- 4.00 Permits and approval programs:
  - 4.01 Approval of applications for airport improvements (construction projects)
  - 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
  - 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
  - 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
  - 4.05 Certificate of Convenience and Necessity to Operate a Railroad
  - 4.06 Highway Work Permits
  - 4.07 License to Operate Major Petroleum Facilities
  - 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
  - 4.09 Real Property Division Permit for Use of State-Owned Property
- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State
- 6.00 Water Operation and Maintenance Program--Activities related to the containment of petroleum spills and development of an emergency oil-spill control network

## URBAN DEVELOPMENT CORPORATION and its subsidiaries and affiliates

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Corporation
- 2.00 Planning, development, financing, construction, major renovation or expansion of commercial, industrial, and civic facilities and the provision of technical assistance or

financing for such activities, including, but not limited to, actions under its discretionary economic development programs such as the following:

- (a) Tax-Exempt Financing Program
- (b) Lease Collateral Program
- (c) Lease Financial Program
- (d) Targeted Investment Program
- (e) Industrial Buildings Recycling Program
- 3.00 Administration of special projects
- 4.00 Administration of State-funded capital grant programs

## **DIVISION OF YOUTH**

1. Assistance under the Public Works and Economic Development Act for street improvements

## B. State, Federal and Local Actions and Programs Which are Necessary to Further the LWRP

## **Department of Environmental Conservation**

- 1. Planning, development, construction, major renovation or expansion of facilities
- 2. Administration of permits and approvals
- 3. Implementation of the Environmental Quality Review Act of 1972
- 4. Provision of operating aid to municipal wastewater treatment facilities
- 5. Administration of funding for resource recovery and management capital projects

## **Division of Homes and Community Renewal**

1. Continued funding under the Rural Area Preservation Program as administered by the Association for Neighborhood Rehabilitation (ANR).

## **Department of State**

1. Provision of funding and assistance for implementation of an approved LWRP

## **Department of Transportation**

- 1. Continued funding and assistance for programs and projects through enhancements
- 2. Coordination of planned road improvements

## Office of Parks, Recreation and Historic Preservation

- 1. Provision of funds from the Land and Water Conservation Fund
- 2. Provision of planning and funding, and development of recreation services programs
- 3. Nomination of properties to the State and National Register of Historic Places

- 4. Provision of funding for State and local historic preservation activities
- 5. Project review of State and Federal agency projects affecting National Register properties

#### **Department of Commerce**

1. Provision of funding and assistance for development and promotion of local tourism, including Adirondack North Country Association (ANCA) programs and activities

#### **Department of Defense, US Army Corps of Engineers**

1. Permit decisions and assistance with funding regarding dredging or development along the Salmon River shoreline and at the dams along the River

#### **Department of Housing and Urban Development**

1. Continued funding and assistance as requested through the Community Development Block Grant/Small Cities program and the Urban Development Action Grant program

#### **Department of the Interior**

1. Provision for funding under the Historic Preservation Grants-in-Aid program, when available

#### Department of the Treasury, Internal Revenue Service

1. Provision of investment tax credits for qualified building rehabilitation

## Franklin County Soil & Water Conservation District

- 1. Provision of technical assistance and/or in-kind services for waterfront projects, including water quality studies
- 2. Provision of technical assistance and/or in-kind services for LWRP project management

and coordination

## Paul Smith's College

1. Provision of technical assistance and/or in-kind services for waterfront projects, including water quality studies

## SECTION VII CONSULTATION WITH OTHER AGENCIES

Several government agencies and local organizations have been consulted during the preparation of this waterfront program. Consultation during the preparation of the draft LWRP involved correspondence, telephone contacts and/or meetings with representatives of those agencies and organizations most likely to affect or be affected by the local program. The agencies and groups listed below provided essential background information, advice, and details about potential funding sources, programs, or regulations that they administer.

To ensure that the needs and desires of the community were reflected in this Local Waterfront Revitalization Program, the Town and Village of Malone established an LWRP Advisory Committee consisting of a wide representation of the residential and business community. Presentations were made to the various groups of which the committee members were representatives, in order to maintain public involvement in and knowledge of the LWRP process.

During the course of the Program's development the Committee held committee meetings which were open to the public. Well-publicized and well-attended public outreach meetings were held to solicit ideas for the process and for projects in January 2006, April 2006, October 2006, and most recently in February 2010. Extensive information was made available through e-mails, posters, survey solicitations, and local newsletters and press articles.

Representatives of public agencies and private entities actively participated throughout the process and assisted in shaping this document by offering project alternatives and creative funding options. Local media reported on the LWRP's development and provided the public with important information about meeting dates.

#### Federal Agencies

- Office of Coastal Zone Management.
- U.S. Army Corps of Engineers.
- Department of Housing and Urban Development.
- Department of Transportation.

## State Agencies

- o Department of Environmental Conservation.
- Department of Health.
- o Department of State.
- Department of Transportation.
- Division of Housing and Community Renewal.
- Office of Parks, Recreation and Historic Preservation.

#### Local Agencies, Groups and Organizations

- Franklin County.
- Franklin County Soil and Water Conservation District.
- Town and Village of Malone.
  - Town Supervisor and Town Board.

- Village Mayor and Village Board.
- Zoning and Code Enforcement Officers.
- Village and Town Planning Boards.
- Village and Town Zoning Boards of Appeals.
- Directors of Public Works.

## OTHER LOCAL GROUPS

The completed draft LWRP (and Environmental Assessment Long Form) will be declared complete by the Town and Village Boards and forwarded to the Secretary of State for review. During a 60-day review period, the LWRP will be available for review and comment by all affected government agencies and other interested parties. Since the NYS Department of State Division of Coastal Resources coordinated the federal and State reviews, only those affected regional and local government agencies and other local organizations will be consulted directly by the Town and Village.

Comments on the draft LWRP and EAF received at public hearings and/or in writing will be analyzed by the Town and Village Boards, Local Waterfront Revitalization Advisory Committee and program consultants. Upon receiving all comments, the Town and Village of Malone, as lead agency, will prepare and adopt the final LWRP.

## **APPENDIX A**

## TOWN OF MALONE WATERFRONT CONSISTENCY REVIEW LAW

## TOWN OF MALONE WATERFRONT CONSISTENCY REVIEW LAW

Be it enacted by the Town Board of the Town of Malone as follows:

## **GENERAL PROVISIONS**

## I. Title.

This Local law will be known as the Town of Malone Waterfront Consistency Review Law.

## II. Authority and Purpose.

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

B. The purpose of this local law is to provide a framework for agencies of the Town of Malone to incorporate the policies and purposes contained in the Town of Malone Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions within the waterfront area; and to assure that such actions and direct actions by Town agencies are consistent with the LWRP policies and purposes.

C. It is the intention of the Town of Malone that the preservation, enhancement and utilization of the unique waterfront area of the Town takes place in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate limited population growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of coastal resources while preventing loss and degradation of living coastal resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural coastal processes; impairment of scenic, cultural or historical resources; losses due to flooding, erosion and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.

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

## III. Definitions.

- A. "Actions" include all the following, except minor actions:
  - (1) Projects or physical activities, such as construction or any other activities that may affect natural, manmade or other resources in the waterfront area or the environment by changing the use, appearance or condition of any resource or structure, that:
    - (i) are directly undertaken by an agency; or
    - (ii) involve funding by an agency; or

- (iii) require one or more new or modified approvals, permits, or review from an agency or agencies;
- (2) Agency planning and policymaking activities that may affect the environment and commit the agency to a definite course of future decisions;
- (3) Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect coastal resources or the environment; and
- (4) Any combination of the above.
- B. "Agency" means any board, agency, department, office, other body, or officer of the Town of Malone.
- C. "Waterfront area" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Town of Malone, as shown on the waterfront area map on file in the office of the Secretary of State and as delineated in the Town of Malone Local Waterfront Revitalization Program (LWRP).
- D. "Waterfront Assessment Form (WAF)" means the form, a sample of which is appended to this local law, used by an agency to assist in determining the consistency of an action with the Local Waterfront Revitalization Program.
- E. "Consistent" means that the action will fully comply with the LWRP policy standards, conditions and objectives and, whenever practicable, will advance one or more of them.
- F. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rule making, procedure making and policy making.
- G. "Environment" means all conditions, circumstances and influences surrounding and affecting the development of living organisms or other resources in the waterfront area.
- H. "Environmental Assessment Form" or "EAF" is a form used in determining the environmental significance or nonsignificance of actions in accordance with the State Environmental Quality Review Act (SEQRA).
- I. "Local Waterfront Revitalization Program" or "LWRP" means the Local Waterfront Revitalization Program of the Town of Malone, approved by the Secretary of State pursuant to the Waterfront Revitalization of Waterfront areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Town of Malone.
- J. "Minor actions" include the following actions, which are not subject to review under this chapter:

- (1) maintenance or repair involving no substantial changes in an existing structure or facility;
- (2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures in areas designated by the Coastal Erosion Hazard Area (CEHA) law where structures may not be replaced, rehabilitated or reconstructed without a permit;
- (3) repaving or widening of existing paved highways not involving the addition of new travel lanes;
- (4) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- (5) maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected, or within Significant Coastal Fish and Wildlife Habitat areas;
- (6) granting of individual setback and lot line variances, except in relation to a regulated natural feature, a bulkhead or other shoreline defense structure;
- (7) minor temporary uses of land having negligible or no permanent impact on coastal resources or the environment;
- (8) installation of traffic control devices on existing streets, roads and highways;
- (9) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- (10) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
- (11) official acts of a ministerial nature involving no exercise of discretion, including building where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code.
- (12) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- (13) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- (14) collective bargaining activities;

- (15) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- (16) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- (17) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road de-icing substances, or other hazardous materials;
- (18) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
- (19) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;
- (20) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
- (21) adoption of a moratorium on land development or construction;
- (22) interpreting an existing code, rule or regulation;
- (23) designation of local landmarks or their inclusion within historic districts;
- (24) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to coastal resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;
- (25) local legislative decisions such as rezoning where the Town Board determines the action will not be approved.

#### **IV. Management and Coordination of the LWRP**

A. The Town of Malone Waterfront Advisory Council (Council) shall be responsible for coordinating review of actions in the Town's waterfront area for consistency with the LWRP, and will advise, assist and make consistency recommendations to other Town agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program.

- B. The Council shall coordinate with the New York State Department of State regarding consistency review of actions by Federal agencies and with State agencies regarding consistency review of their actions.
- C. The Council shall assist the Town Board in making applications for funding from State, Federal, or other sources to finance projects under the LWRP.
- D. The Council shall perform other functions regarding the waterfront area and direct such actions or projects as the Town Board may deem appropriate, to implement the LWRP.

#### V. Review of Actions.

- A. Whenever a proposed action is located within the Town's waterfront area, each Town agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards summarized in Section H herein. No action in the waterfront area shall be approved, funded or undertaken by that agency without such a determination.
- B. Whenever a Town agency receives an application for approval or funding of an action, or as early as possible in the agency's formulation of a direct action to be located in the waterfront area, the agency shall refer a copy of the completed WAF to the Council within ten (10) days of its receipt and prior to making its determination, shall consider the recommendation of the Council with reference to the consistency of the proposed action. The WAF shall be completed by the applicant.
- C. After referral from an agency, the Council shall consider whether the proposed action is consistent with the LWRP policy standards set forth in Section H herein. The Council shall require the applicant to submit all completed applications, WAFs, EAFs, and any other information deemed necessary to its consistency recommendation.

The Council shall render its written recommendation to the agency within sixty (60) days following referral of the WAF from the agency, unless extended by mutual agreement of the Council and the applicant or in the case of a direct action, the agency. The Council's recommendation shall indicate whether the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and shall elaborate in writing the basis for its opinion. The Council shall, along with a consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards or to greater advance them.

In the event that the Council's recommendation is not forthcoming within the specified time, the agency shall make its consistency decision without the benefit of the Council's recommendation.

D. If an action requires approval of more than one Town agency, decision making will be coordinated between the agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as designated consistency review agency for the specific action being reviewed. Only one WAF per action will be prepared.

If the agencies cannot agree, the Town Board shall designate the consistency review agency.

E. Upon receipt of the Council's recommendation, the agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in Section H herein. The agency shall consider the consistency recommendation of the Council, the WAF and other relevant information in making its written determination of consistency. No approval or decision shall be rendered for an action in the waterfront area without a written determination of consistency having first been rendered by a Town agency.

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

- F. Where an EIS is being prepared or required, the draft EIS must identify applicable LWRP policies standards in Section H and include a thorough discussion of the effects of the proposed action on such policy standards.
- G. In the event the Council's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and state the manner and extent to which the action is consistent with the LWRP policy standards.
- H. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following summary of LWRP policy standards, which are derived from and further explained and described in Section III (Policies) of the Town of Malone LWRP, a copy of which is on file in the Town Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions must also consult with Section IV (Proposed Uses and Projects), in making their consistency determination. The action must be consistent with the policies to:
  - 1. Foster a pattern of development in the waterfront area that enhances the community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a waterfront location and minimizes adverse effects of development. (Policy 1)
  - 2. Preserve historic resources of the waterfront area. (Policy 2)
  - 3. Enhance visual quality and protect scenic resources throughout the waterfront area. (Policy 3)
  - 4. Minimize loss of life, structure and natural resources from flooding and erosion. (Policy 4)
  - 5. Protect and improve water quality and supply. (Policy 5)
  - 6. Protect and restore the quality and function of the ecosystem. (Policy 6)
  - 7. Protect and improve air quality in the waterfront area. (Policy 7)
  - 8. Minimize environmental degradation in the waterfront area from solid waste and hazardous substances and wastes. (Policy 8)
  - 9. Provide for public access to, and recreational use of the waterway, public lands, and public resources of the waterfront. (Policy 9)
  - 10. Protect water-dependent uses and promote the siting of new water-dependent uses in suitable locations. (Policy 10)

- 11. Promote sustainable use of living freshwater resources. (Policy 11)
- 12. Protect agricultural lands. (Policy 12)
- 13. Promote appropriate use and development of energy and mineral resources. (Policy 13)
- I. The Town shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Planning Board. Such files shall be made available for public inspection upon request. The duration for retention should follow standards for NYS records retention.

#### VI. Enforcement.

No action within the Malone waterfront area which is subject to review under this Chapter shall proceed until a **written determination** has been issued from a Town agency that the action is consistent with the Town's LWRP policy standards. In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Town Attorney, Code Enforcement Officer, or any other authorized official of the Town shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect. Town Attorney and Code Enforcement Officer shall be responsible for enforcing this Chapter.

#### VII. Violations.

- A. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this Chapter shall have committed a violation, punishable by a fine not exceeding two hundred and fifty dollars (\$250.00) for a conviction of a first offense and punishable by a fine of five hundred (\$500.00) for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.
- B. The Town Attorney or any other party authorized by the Town is directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

#### VIII. Severability.

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

#### IX. Effective Date.

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

### WATERFRONT ASSESSMENT FORM

#### A. <u>INSTRUCTIONS</u> (Please print or type all answers)

- 1. Applicants, or in the case of direct actions, Town of Malone agencies, shall complete this WAF for proposed actions which are subject to the Waterfront Consistency Review Law. This assessment is intended to supplement other information used by a Town of Malone agency in making a determination of consistency.
- 2. Before answering the questions in Section C, the preparer of this form should review the policies and explanations of policy contained in the Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the Town of Malone Clerk's office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the waterfront area.
- 3. If any question in Section C on this form is answered "yes", then the proposed action may affect the achievement of the LWRP policy standards contained in the consistency review law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination that it is consistent with the LWRP policy standards. If an action cannot be certified as consistent with the LWRP policy standards, it shall not be undertaken.

#### B. <u>DESCRIPTION OF SITE AND PROPOSED ACTION</u>

- 1. Type of agency action (check appropriate response):
  - Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction)
  - (b) Financial assistance (e.g. grant, loan, subsidy)
  - (c) Permit, approval, license, certification
  - (d) Agency undertaking action:
- 2. Describe nature and extent of action:

3.	Location of action:
	(Street or Site Description)
4.	Size of site:
5.	Present land use:
6.	Present zoning classification:
7.	Describe any unique or unusual land forms on the project site (i.e., steep slopes, swales, ground depressions, other geological formations):
8.	Percentage of site which contains slopes of 15% or greater:
9. area?	Streams, lakes, ponds or wetlands existing within or contiguous to the project
Name	(1)
	(2) Size (in
acres)	:
10.	If an application for the proposed action has been filed with the agency, the following information shall be provided:
onnlio	(a) Name of
applic	ant: (b) Mailing
addre	SS:
(	(c) Telephone number: Area Code
\ any:	) (d) Application number, if

11. Will the action be directly undertaken, require funding, or approval by a state or federal agency?

Yes\_\_\_\_ No\_\_\_\_ If yes, which state or federal agency?\_\_\_\_\_

C. <u>WATERFRONT ASSESSMENT</u> (Check either "Yes" or "No" for each of the following questions)

1.	Will the proposed action be located in, or contiguous	<u>YES NO</u>
	to, or have a potentially <u>adverse effect</u> upon any of the resource areas identified on the Waterfront Area Map	
	and as delineated in the LWRP:	

(a)	Significant fish or wildlife habitats?	
(b)	Scenic resources of local or statewide significance?	
(c)	Important agricultural lands?	
. ,		

(d) Natural protective features in an erosion hazard area?

If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

2.	Will t	he prop	bosed action have a <u>significant effect</u> upon:	<u>YES NO</u>
		(a)	Commercial or recreational use of fish and wildlife resources?	
		(b)	Scenic quality of the coastal environment?	<u> </u>
		(c)	Development of future, or existing water dependent uses?	
		(d)	Operation of the State's major ports?	
		(e)	Land or water uses within a small harbor area?	
		(f)	Stability of the shoreline?	
		(g)	Surface or groundwater quality?	
		(h)	Existing or potential public recreation opportunities?	
		(i)	Structures, sites or districts of historic,	
			archeological or cultural significance to the Town of Malone, State or nation?	
	3.	Will tl follow	he proposed action <u>involve</u> or <u>result in</u> any of the <i>v</i> ing:	<u>YES NO</u>
		(a)	Physical alteration of land along the shoreline, land under water or coastal waters?	

(b)	Physical alteration of two (2) acres or more of land located elsewhere in the waterfront area?	
(c)	Expansion of existing public services or	
	infrastructure in undeveloped or low density areas	
	of the waterfront area?	
(d)	Energy facility not subject to Article VII or VIII	
	of the Public Service Law?	
(e)	Mining, excavation, filling or dredging in	
	coastal waters?	
(f)	Reduction of existing or potential public access	
	to or along the shore?	
(g)	Sale or change in use of publicly-owned lands	
	located on the shoreline or under water?	
(h)	Development within a designated floor or erosion	
	hazard area?	
(i)	Development on a beach, dune, barrier island or	
	other natural feature that provides protection	
	against flooding or erosion?	
(j)	Construction or reconstruction of erosion protective	
(1)	structures?	
(k)	Diminished surface or groundwater quality?	
(I)	Removal of ground cover from the site?	
PROJECT		<u>YES NO</u>
	vision to be leasted adjacent to above.	<u>YES NO</u>
(a) If a p	project is to be located adjacent to shore:	<u>YES NO</u>
(a) If a p (1)	Will water-related recreation be provided?	<u>YES NO</u>
(a) If a p (1) (2)	Will water-related recreation be provided? Will public access to the foreshore be provided?	<u>YES NO</u>
(a) If a p (1) (2) (3)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site?	<u>YES NO</u>
(a) If a p (1) (2) (3) (4)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use?	<u>YES NO</u>
(a) If a p (1) (2) (3)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently	<u>YES NO</u>
(a) If a p (1) (2) (3) (4) (5)	<ul><li>Will water-related recreation be provided?</li><li>Will public access to the foreshore be provided?</li><li>Does the project require a waterfront site?</li><li>Will it supplant a recreational or maritime use?</li><li>Do essential public services and facilities presently exist at or near the site?</li></ul>	<u>YES NO</u>
(a) If a p (1) (2) (3) (4) (5) (6)	<ul><li>Will water-related recreation be provided?</li><li>Will public access to the foreshore be provided?</li><li>Does the project require a waterfront site?</li><li>Will it supplant a recreational or maritime use?</li><li>Do essential public services and facilities presently exist at or near the site?</li><li>Is it located in a flood prone area?</li></ul>	<u>YES NO</u>
(a) If a p (1) (2) (3) (4) (5)	<ul><li>Will water-related recreation be provided?</li><li>Will public access to the foreshore be provided?</li><li>Does the project require a waterfront site?</li><li>Will it supplant a recreational or maritime use?</li><li>Do essential public services and facilities presently exist at or near the site?</li></ul>	<u>YES NO</u>
(a) If a p (1) (2) (3) (4) (5) (6)	<ul><li>Will water-related recreation be provided?</li><li>Will public access to the foreshore be provided?</li><li>Does the project require a waterfront site?</li><li>Will it supplant a recreational or maritime use?</li><li>Do essential public services and facilities presently exist at or near the site?</li><li>Is it located in a flood prone area?</li></ul>	
(a) If a p (1) (2) (3) (4) (5) (6) (7)	<ul><li>Will water-related recreation be provided?</li><li>Will public access to the foreshore be provided?</li><li>Does the project require a waterfront site?</li><li>Will it supplant a recreational or maritime use?</li><li>Do essential public services and facilities presently exist at or near the site?</li><li>Is it located in a flood prone area?</li></ul>	<u>YES NO</u>
(a) If a p (1) (2) (3) (4) (5) (6) (7)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion?	
<ul> <li>(a) If a p</li> <li>(1)</li> <li>(2)</li> <li>(3)</li> <li>(4)</li> <li>(5)</li> <li>(6)</li> <li>(7)</li> </ul>	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion?	
<ul> <li>(a) If a p</li> <li>(1)</li> <li>(2)</li> <li>(3)</li> <li>(4)</li> <li>(5)</li> <li>(6)</li> <li>(7)</li> </ul>	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion?	
<ul> <li>(a) If a p</li> <li>(1)</li> <li>(2)</li> <li>(3)</li> <li>(4)</li> <li>(5)</li> <li>(6)</li> <li>(7)</li> </ul>	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion? Oject site is publicly owned: Will the project protect, maintain and/or increase the level and types of public access to water- related recreation resources and facilities? If located in the foreshore, will access to those	
(a) If a p (1) (2) (3) (4) (5) (6) (7) (b) If the pro (1) (2)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion? Oject site is publicly owned: Will the project protect, maintain and/or increase the level and types of public access to water- related recreation resources and facilities? If located in the foreshore, will access to those and adjacent lands be provided?	
(a) If a p (1) (2) (3) (4) (5) (6) (7) (b) If the pr (1)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion? Oject site is publicly owned: Will the project protect, maintain and/or increase the level and types of public access to water- related recreation resources and facilities? If located in the foreshore, will access to those and adjacent lands be provided? Will it involve the siting and construction of	
<ul> <li>(a) If a p</li> <li>(1)</li> <li>(2)</li> <li>(3)</li> <li>(4)</li> <li>(5)</li> <li>(6)</li> <li>(7)</li> </ul> (b) If the provide (1) <ul> <li>(2)</li> <li>(3)</li> </ul>	<ul> <li>Will water-related recreation be provided?</li> <li>Will public access to the foreshore be provided?</li> <li>Does the project require a waterfront site?</li> <li>Will it supplant a recreational or maritime use?</li> <li>Do essential public services and facilities presently exist at or near the site?</li> <li>Is it located in a flood prone area?</li> <li>Is it located in an area of high erosion?</li> </ul> Oject site is publicly owned: <ul> <li>Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities?</li> <li>If located in the foreshore, will access to those and adjacent lands be provided?</li> <li>Will it involve the siting and construction of major energy facilities?</li> </ul>	
(a) If a p (1) (2) (3) (4) (5) (6) (7) (b) If the pro (1) (2)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion? Oject site is publicly owned: Will the project protect, maintain and/or increase the level and types of public access to water- related recreation resources and facilities? If located in the foreshore, will access to those and adjacent lands be provided? Will it involve the siting and construction of	

4.

	facilities into coastal facilities?	
(c)	Is the project site presently used by the community	
(d)	neighborhood as an open space or recreation area? Does the present site offer or include scenic views or	
(d)	vistas known to be important to the community?	
(e)	Is the project site presently used for commercial	
(0)	fishing or fish processing?	
(f)	Will the surface area of any waterways or wetland	
. ,	areas be increased or decreased by the proposal?	
(g)	Does any mature forest (over 100 years old) or other	
	locally important vegetation exist on this site which	
(1.)	will be removed by the project?	
(h)	Will the project involve any waste discharges into coastal waters?	
(i)	Does the project involve surface or subsurface liquid	
(1)	waste disposal?	
(j)	Does the project involve transport, storage, treatment	
0,	or disposal of solid waste or hazardous materials?	
(k)	Does the project involve shipment or storage of	
	petroleum products?	
(I)	Does the project involve discharge of toxics, hazardous	
(m)	substances or other pollutants into coastal waters?	
(m)	Does the project involve or change existing ice management practices?	
(n)	Will the project affect any area designated as a tidal	
()	or freshwater wetland?	
(o)	Will the project alter drainage flow, patterns or	
	surface water runoff on or from the site?	
(p)	Will best management practices be utilized to control	
	storm water runoff into coastal waters?	
(q)	Will the project utilize or affect the quality or quantity	
(r)	of sole source or surface water supplies? Will the project cause emissions which exceed federal or	
(r)	state air quality standards or generate significant	
	amounts of nitrates or sulfates?	

D. <u>REMARKS OR ADDITIONAL INFORMATION:</u> (Add any additional sheets to complete this form.)

If assistance or further information is needed to complete this form, please contact Town of Malone Clerk at \_\_\_\_\_

Preparer's Name:	Telephone
Number:()	

Title:	Agency:	Date:

# **APPENDIX B**

## VILLAGE OF MALONE WATERFRONT CONSISTENCY REVIEW LAW

#### VILLAGE OF MALONE WATERFRONT CONSISTENCY REVIEW LAW

Be it enacted by the Village Board of the Village of Malone as follows:

## **GENERAL PROVISIONS**

### I. Title.

This Local law will be known as the Village of Malone Waterfront Consistency Review Law.

### II. Authority and Purpose.

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

B. The purpose of this local law is to provide a framework for agencies of the Village of Malone to incorporate the policies and purposes contained in the Town and Village of Malone Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions within the waterfront area; and to assure that such actions and direct actions by Village agencies are consistent with the LWRP policies and purposes.

C. It is the intention of the Village of Malone that the preservation, enhancement and utilization of the unique waterfront area of the Village takes place in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate limited population growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of coastal resources while preventing loss and degradation of living coastal resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural coastal processes; impairment of scenic, cultural or historical resources; losses due to flooding, erosion and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.

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

## III. Definitions.

- A. "Actions" include all the following, except minor actions:
  - (1) Projects or physical activities, such as construction or any other activities that may affect natural, manmade or other resources in the waterfront area or the environment by changing the use, appearance or condition of any resource or structure, that:
    - (i) are directly undertaken by an agency; or
    - (ii) involve funding by an agency; or

- (iii) require one or more new or modified approvals, permits, or review from an agency or agencies;
- (2) Agency planning and policymaking activities that may affect the environment and commit the agency to a definite course of future decisions;
- (3) Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect coastal resources or the environment; and
- (4) Any combination of the above.
- B. "Agency" means any board, agency, department, office, other body, or officer of the Village of Malone.
- C. "Waterfront area" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Village of Malone, as shown on the waterfront area map on file in the office of the Secretary of State and as delineated in the Town and Village of Malone Local Waterfront Revitalization Program (LWRP).
- D. "Waterfront Assessment Form (WAF)" means the form, a sample of which is appended to this local law, used by an agency to assist in determining the consistency of an action with the Local Waterfront Revitalization Program.
- E. "Consistent" means that the action will fully comply with the LWRP policy standards, conditions and objectives and, whenever practicable, will advance one or more of them.
- F. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rule making, procedure making and policy making.
- G. "Environment" means all conditions, circumstances and influences surrounding and affecting the development of living organisms or other resources in the waterfront area.
- H. "Environmental Assessment Form" or "EAF" is a form used in determining the environmental significance or nonsignificance of actions in accordance with the State Environmental Quality Review Act (SEQRA).
- I. "Local Waterfront Revitalization Program" or "LWRP" means the Local Waterfront Revitalization Program of the Village of Malone, approved by the Secretary of State pursuant to the Waterfront Revitalization of Waterfront areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Village of Malone.
- J. "Minor actions" include the following actions, which are not subject to review under this chapter:

- (1) maintenance or repair involving no substantial changes in an existing structure or facility;
- (2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures in areas designated by the Coastal Erosion Hazard Area (CEHA) law where structures may not be replaced, rehabilitated or reconstructed without a permit;
- (3) repaving or widening of existing paved highways not involving the addition of new travel lanes;
- (4) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- (5) maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected, or within Significant Coastal Fish and Wildlife Habitat areas;
- (6) granting of individual setback and lot line variances, except in relation to a regulated natural feature, a bulkhead or other shoreline defense structure;
- (7) minor temporary uses of land having negligible or no permanent impact on coastal resources or the environment;
- (8) installation of traffic control devices on existing streets, roads and highways;
- (9) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- (10) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
- (11) official acts of a ministerial nature involving no exercise of discretion, including building where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code.
- (12) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- (13) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- (14) collective bargaining activities;

- (15) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- (16) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- (17) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road de-icing substances, or other hazardous materials;
- (18) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
- (19) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;
- (20) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
- (21) adoption of a moratorium on land development or construction;
- (22) interpreting an existing code, rule or regulation;
- (23) designation of local landmarks or their inclusion within historic districts;
- (24) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to coastal resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;
- (25) local legislative decisions such as rezoning where the Village Board determines the action will not be approved.

#### **IV. Management and Coordination of the LWRP**

A. The Village of Malone Waterfront Advisory Council (Council) shall be responsible for coordinating review of actions in the Village 's waterfront area for consistency with the LWRP, and will advise, assist and make consistency recommendations to other Village agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program.

- B. The Council shall coordinate with the New York State Department of State regarding consistency review of actions by Federal agencies and with State agencies regarding consistency review of their actions.
- C. The Council shall assist the Village Board in making applications for funding from State, Federal, or other sources to finance projects under the LWRP.
- D. The Council shall perform other functions regarding the waterfront area and direct such actions or projects as the Village Board may deem appropriate, to implement the LWRP.

#### V. Review of Actions.

- A. Whenever a proposed action is located within the Village's waterfront area, each Village agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards summarized in Section H herein. No action in the waterfront area shall be approved, funded or undertaken by that agency without such a determination.
- B. Whenever a Village agency receives an application for approval or funding of an action, or as early as possible in the agency's formulation of a direct action to be located in the waterfront area, the agency shall refer a copy of the completed WAF to the Council within ten (10) days of its receipt and prior to making its determination, shall consider the recommendation of the Council with reference to the consistency of the proposed action. The WAF shall be completed by the applicant.
- C. After referral from an agency, the Council shall consider whether the proposed action is consistent with the LWRP policy standards set forth in Section H herein. The Council shall require the applicant to submit all completed applications, WAFs, EAFs, and any other information deemed necessary to its consistency recommendation.

The Council shall render its written recommendation to the agency within sixty (60) days following referral of the WAF from the agency, unless extended by mutual agreement of the Council and the applicant or in the case of a direct action, the agency. The Council's recommendation shall indicate whether the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and shall elaborate in writing the basis for its opinion. The Council shall, along with a consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards or to greater advance them.

In the event that the Council's recommendation is not forthcoming within the specified time, the agency shall make its consistency decision without the benefit of the Council's recommendation.

D. If an action requires approval of more than one Village agency, decision making will be coordinated between the agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as designated consistency review agency for the specific action being reviewed. Only one WAF per action will be prepared.

If the agencies cannot agree, the Village Board shall designate the consistency review agency.

E. Upon receipt of the Council's recommendation, the agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in Section H herein. The agency shall consider the consistency recommendation of the Council, the WAF and other relevant information in making its written determination of consistency. No approval or decision shall be rendered for an action in the waterfront area without a written determination of consistency having first been rendered by a Village agency.

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

- F. Where an EIS is being prepared or required, the draft EIS must identify applicable LWRP policies standards in Section H and include a thorough discussion of the effects of the proposed action on such policy standards.
- G. In the event the Council's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and state the manner and extent to which the action is consistent with the LWRP policy standards.
- H. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following summary of LWRP policy standards, which are derived from and further explained and described in Section III (Policies) of the Village of Malone LWRP, a copy of which is on file in the Village Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions must also consult with Section IV (Proposed Uses and Projects), in making their consistency determination. The action must be consistent with the policies to:
  - 1. Foster a pattern of development in the waterfront area that enhances the community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a waterfront location and minimizes adverse effects of development. (Policy 1)
  - 2. Preserve historic resources of the waterfront area. (Policy 2)
  - 3. Enhance visual quality and protect scenic resources throughout the waterfront area. (Policy 3)
  - 4. Minimize loss of life, structure and natural resources from flooding and erosion. (Policy 4)
  - 5. Protect and improve water quality and supply. (Policy 5)
  - 6. Protect and restore the quality and function of the ecosystem. (Policy 6)
  - 7. Protect and improve air quality in the waterfront area. (Policy 7)
  - 8. Minimize environmental degradation in the waterfront area from solid waste and hazardous substances and wastes. (Policy 8)
  - 9. Provide for public access to, and recreational use of the waterway, public lands, and public resources of the waterfront. (Policy 9)
  - 10. Protect water-dependent uses and promote the siting of new water-dependent uses in suitable locations. (Policy 10)

- 11. Promote sustainable use of living freshwater resources. (Policy 11)
- 12. Protect agricultural lands. (Policy 12)
- 13. Promote appropriate use and development of energy and mineral resources. (Policy 13)
- I. The Village shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Planning Board. Such files shall be made available for public inspection upon request. The duration for retention should follow standards for NYS records retention.

#### VI. Enforcement.

No action within the Malone waterfront area which is subject to review under this Chapter shall proceed until a **written determination** has been issued from a Village agency that the action is consistent with the Village's LWRP policy standards. In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Village Attorney, Code Enforcement Officer, or any other authorized official of the Village shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect. Village Attorney and Code Enforcement Officer shall be responsible for enforcing this Chapter.

#### VII. Violations.

- A. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this Chapter shall have committed a violation, punishable by a fine not exceeding two hundred and fifty dollars (\$250.00) for a conviction of a first offense and punishable by a fine of five hundred (\$500.00) for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.
- B. The Village Attorney or any other party authorized by the Village is directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

#### VIII. Severability.

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

#### IX. Effective Date.

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

### WATERFRONT ASSESSMENT FORM

#### A. <u>INSTRUCTIONS</u> (Please print or type all answers)

- 1. Applicants, or in the case of direct actions, Village of Malone agencies, shall complete this WAF for proposed actions which are subject to the Waterfront Consistency Review Law. This assessment is intended to supplement other information used by a Village of Malone agency in making a determination of consistency.
- 2. Before answering the questions in Section C, the preparer of this form should review the policies and explanations of policy contained in the Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the Village of Malone Clerk's office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the waterfront area.
- 3. If any question in Section C on this form is answered "yes", then the proposed action may affect the achievement of the LWRP policy standards contained in the consistency review law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination that it is consistent with the LWRP policy standards. If an action cannot be certified as consistent with the LWRP policy standards, it shall not be undertaken.

#### B. <u>DESCRIPTION OF SITE AND PROPOSED ACTION</u>

- 1. Type of agency action (check appropriate response):
  - Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction)
  - (b) Financial assistance (e.g. grant, loan, subsidy)
  - (c) Permit, approval, license, certification
  - (d) Agency undertaking action:
- 2. Describe nature and extent of action:

3.	Location of action:
	(Street or Site Description)
4.	Size of site:
5.	Present land use:
6.	Present zoning classification:
7.	Describe any unique or unusual land forms on the project site (i.e., steep slopes, swales, ground depressions, other geological formations):
8.	Percentage of site which contains slopes of 15% or greater:
9. area?	Streams, lakes, ponds or wetlands existing within or contiguous to the project
Name	(1)
	(2) Size (in
acres)	:
10.	If an application for the proposed action has been filed with the agency, the following information shall be provided:
onnlio	(a) Name of
applic	ant: (b) Mailing
addre	SS:
(	(c) Telephone number: Area Code
\ any:	) (d) Application number, if

11. Will the action be directly undertaken, require funding, or approval by a state or federal agency?

Yes\_\_\_\_ No\_\_\_\_ If yes, which state or federal agency?\_\_\_\_\_

C. <u>WATERFRONT ASSESSMENT</u> (Check either "Yes" or "No" for each of the following questions)

1.	Will the proposed action be located in, or contiguous	YES NO
	to, or have a potentially adverse effect upon any of	
	the resource areas identified on the Waterfront Area Map and as delineated in the LWRP:	

(a)	Significant fish or wildlife habitats?	
(b)	Scenic resources of local or statewide significance?	
(c)	Important agricultural lands?	
. ,		

(d) Natural protective features in an erosion hazard area?

If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

2.	Will t	he prop	bosed action have a <u>significant effect</u> upon:	<u>YES NO</u>
		(a)	Commercial or recreational use of fish and wildlife resources?	
		(b)	Scenic quality of the coastal environment?	<u> </u>
		(c)	Development of future, or existing water dependent uses?	
		(d)	Operation of the State's major ports?	
		(e)	Land or water uses within a small harbor area?	
		(f)	Stability of the shoreline?	
		(g)	Surface or groundwater quality?	
		(h)	Existing or potential public recreation opportunities?	
		(i)	Structures, sites or districts of historic,	
			archeological or cultural significance to the	
			Town of Malone, State or nation?	
	3.	Will th follow	he proposed action <u>involve</u> or <u>result in</u> any of the ving:	<u>YES NO</u>
		(a)	Physical alteration of land along the shoreline, land under water or coastal waters?	

(b)	Physical alteration of two (2) acres or more of land located elsewhere in the waterfront area?	
(c)	Expansion of existing public services or	
	infrastructure in undeveloped or low density areas	
	of the waterfront area?	
(d)	Energy facility not subject to Article VII or VIII	
	of the Public Service Law?	
(e)	Mining, excavation, filling or dredging in	
	coastal waters?	
(f)	Reduction of existing or potential public access	
	to or along the shore?	
(g)	Sale or change in use of publicly-owned lands	
	located on the shoreline or under water?	
(h)	Development within a designated floor or erosion	
	hazard area?	
(i)	Development on a beach, dune, barrier island or	
	other natural feature that provides protection	
	against flooding or erosion?	
(j)	Construction or reconstruction of erosion protective	
4.5	structures?	
(k)	Diminished surface or groundwater quality?	
(I)	Removal of ground cover from the site?	
()		
PROJECT		<u>YES NO</u>
PROJECT	reject is to be leasted adjacent to share.	<u>YES NO</u>
PROJECT	project is to be located adjacent to shore:	<u>YES NO</u>
PROJECT (a) If a p (1)	Will water-related recreation be provided?	<u>YES NO</u>
PROJECT (a) If a p (1) (2)	Will water-related recreation be provided? Will public access to the foreshore be provided?	<u>YES NO</u>
PROJECT (a) If a p (1) (2) (3)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site?	<u>YES NO</u>
PROJECT (a) If a p (1) (2) (3) (4)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use?	<u>YES NO</u>
PROJECT (a) If a p (1) (2) (3)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently	<u>YES NO</u>
PROJECT (a) If a p (1) (2) (3) (4) (5)	<ul><li>Will water-related recreation be provided?</li><li>Will public access to the foreshore be provided?</li><li>Does the project require a waterfront site?</li><li>Will it supplant a recreational or maritime use?</li><li>Do essential public services and facilities presently exist at or near the site?</li></ul>	<u>YES NO</u>
PROJECT (a) If a p (1) (2) (3) (4) (5) (6)	<ul><li>Will water-related recreation be provided?</li><li>Will public access to the foreshore be provided?</li><li>Does the project require a waterfront site?</li><li>Will it supplant a recreational or maritime use?</li><li>Do essential public services and facilities presently exist at or near the site?</li><li>Is it located in a flood prone area?</li></ul>	<u>YES NO</u>
PROJECT (a) If a p (1) (2) (3) (4) (5)	<ul><li>Will water-related recreation be provided?</li><li>Will public access to the foreshore be provided?</li><li>Does the project require a waterfront site?</li><li>Will it supplant a recreational or maritime use?</li><li>Do essential public services and facilities presently exist at or near the site?</li></ul>	<u>YES NO</u>
PROJECT (a) If a p (1) (2) (3) (4) (5) (6)	<ul><li>Will water-related recreation be provided?</li><li>Will public access to the foreshore be provided?</li><li>Does the project require a waterfront site?</li><li>Will it supplant a recreational or maritime use?</li><li>Do essential public services and facilities presently exist at or near the site?</li><li>Is it located in a flood prone area?</li></ul>	<u>YES NO</u>
PROJECT (a) If a p (1) (2) (3) (4) (5) (6) (7)	<ul><li>Will water-related recreation be provided?</li><li>Will public access to the foreshore be provided?</li><li>Does the project require a waterfront site?</li><li>Will it supplant a recreational or maritime use?</li><li>Do essential public services and facilities presently exist at or near the site?</li><li>Is it located in a flood prone area?</li></ul>	
PROJECT (a) If a p (1) (2) (3) (4) (5) (6) (7)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion?	
PROJECT (a) If a p (1) (2) (3) (4) (5) (6) (7) (b) If the pro-	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion?	
PROJECT (a) If a p (1) (2) (3) (4) (5) (6) (7) (b) If the pro- (1)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion?	
PROJECT (a) If a p (1) (2) (3) (4) (5) (6) (7) (b) If the pro-	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion? Dject site is publicly owned: Will the project protect, maintain and/or increase the level and types of public access to water- related recreation resources and facilities? If located in the foreshore, will access to those	
PROJECT (a) If a p (1) (2) (3) (4) (5) (6) (7) (b) If the pro (1) (2)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion? Dject site is publicly owned: Will the project protect, maintain and/or increase the level and types of public access to water- related recreation resources and facilities? If located in the foreshore, will access to those and adjacent lands be provided?	
PROJECT (a) If a p (1) (2) (3) (4) (5) (6) (7) (b) If the pro- (1)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion? Dject site is publicly owned: Will the project protect, maintain and/or increase the level and types of public access to water- related recreation resources and facilities? If located in the foreshore, will access to those and adjacent lands be provided? Will it involve the siting and construction of	
PROJECT (a) If a p (1) (2) (3) (4) (5) (6) (7) (b) If the pro (1) (2) (3)	<ul> <li>Will water-related recreation be provided?</li> <li>Will public access to the foreshore be provided?</li> <li>Does the project require a waterfront site?</li> <li>Will it supplant a recreational or maritime use?</li> <li>Do essential public services and facilities presently exist at or near the site?</li> <li>Is it located in a flood prone area?</li> <li>Is it located in an area of high erosion?</li> </ul> Oject site is publicly owned: <ul> <li>Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities?</li> <li>If located in the foreshore, will access to those and adjacent lands be provided?</li> <li>Will it involve the siting and construction of major energy facilities?</li> </ul>	
PROJECT (a) If a p (1) (2) (3) (4) (5) (6) (7) (b) If the pro (1) (2)	Will water-related recreation be provided? Will public access to the foreshore be provided? Does the project require a waterfront site? Will it supplant a recreational or maritime use? Do essential public services and facilities presently exist at or near the site? Is it located in a flood prone area? Is it located in an area of high erosion? Dject site is publicly owned: Will the project protect, maintain and/or increase the level and types of public access to water- related recreation resources and facilities? If located in the foreshore, will access to those and adjacent lands be provided? Will it involve the siting and construction of	

4.

	facilities into coastal facilities?	
(c)	Is the project site presently used by the community	
(d)	neighborhood as an open space or recreation area? Does the present site offer or include scenic views or	
(d)	vistas known to be important to the community?	
(e)	Is the project site presently used for commercial	
(0)	fishing or fish processing?	
(f)	Will the surface area of any waterways or wetland	
. ,	areas be increased or decreased by the proposal?	
(g)	Does any mature forest (over 100 years old) or other	
	locally important vegetation exist on this site which	
(1.)	will be removed by the project?	
(h)	Will the project involve any waste discharges into coastal waters?	
(i)	Does the project involve surface or subsurface liquid	
(1)	waste disposal?	
(j)	Does the project involve transport, storage, treatment	
0,	or disposal of solid waste or hazardous materials?	
(k)	Does the project involve shipment or storage of	
	petroleum products?	
(I)	Does the project involve discharge of toxics, hazardous	
(m)	substances or other pollutants into coastal waters?	
(m)	Does the project involve or change existing ice management practices?	
(n)	Will the project affect any area designated as a tidal	
()	or freshwater wetland?	
(o)	Will the project alter drainage flow, patterns or	
	surface water runoff on or from the site?	
(p)	Will best management practices be utilized to control	
	storm water runoff into coastal waters?	
(q)	Will the project utilize or affect the quality or quantity	
(r)	of sole source or surface water supplies? Will the project cause emissions which exceed federal or	
(r)	state air quality standards or generate significant	
	amounts of nitrates or sulfates?	

D. <u>REMARKS OR ADDITIONAL INFORMATION:</u> (Add any additional sheets to complete this form.)

If assistance or further information is needed to complete this form, please contact Village of Malone Clerk at \_\_\_\_\_

Preparer's Name:	Telephone
Number: <u>( )</u>	

Title:	Agency:	Date:

# **APPENDIX C**

## TOWN OF MALONE WATERFRONT OVERLAY DISTRICT

## Town of Malone Waterfront Overlay District

A local law to establish standards for protecting the natural, scenic, and historic values of the Salmon River while encouraging compatible land uses along the waterfront.

- A. Purpose and intent.
  - (1) The Town intends to protect a scenic corridor along the Salmon River and its tributaries, in accordance with the Town and Village of Malone Local Waterfront Revitalization Plan. The purpose of the district is to maintain a green, undeveloped corridor along much of the Town's waterfront and to provide a consistent level of protection of the visual, environmental and historic resources within this corridor.
  - (2) The existing vegetation along the Salmon River is effective in creating a secluded natural experience for waterfront land owners, boaters, hikers and other waterfront users. In addition, a vegetative buffer reduces the velocity and volume of stormwater runoff entering the River, increases infiltration, decreases erosion, and protects water quality. Vegetation filters out pollutants, including nutrients from fertilizers and agricultural pesticides. Therefore protection of the Salmon River waterfront is critical to its users as well as its ecology.
  - (3) The Waterfront Overlay (WO) District is overlayed onto existing zoning districts. All provisions of the underlying districts remain in full force, except where provisions of the WO District differ. In such cases, the more restrictive provision shall apply. The principal control mechanisms of the WO are construction setbacks from the waterline, restrictions on the removal of natural vegetation within an established buffer zone adjacent to the water, and performance standards governing land use activities within the district. The WO will extend two-hundred (200) feet from the Salmon River high water mark.
  - (4) The specific purposes of this district include the following:
    - (a) To preserve natural, scenic, and historic values along the Salmon River.
    - (b) To preserve woodlands, wetlands, and other green space.
    - (c) To regulate uses and structures along the Salmon River to avoid increased erosion and sedimentation.
    - (d) To encourage compatible land uses along the Salmon River.

- (e) To recognize areas of significant environmental sensitivity that should not be intensely developed.
- (f) To allow reasonable uses of lands while directing more intense development to the most appropriate areas of the community.
- B. Permitted uses; prohibited uses.
  - (1) The underlying zoning district determines the permitted principal uses, accessory uses and special permit uses within the Waterfront Overlay District. Underlying districts within the WO District include those districts located within 200 feet of the high water mark.
  - (2) The following uses, however, are specifically prohibited within the WO District:
    - (a) Junkyards and solid waste disposal or processing facilities.
    - (b) Mineral extraction or surface mining.
    - (c) Freight or truck terminals.
    - (d) Bulk fuel storage.
    - (e) Bulk industrial chemical storage or processing.
    - (f) Uses which may be noxious or injurious due to the production or emission of dust, smoke, odor, gases, fumes, solid or liquid waste, noise, light, vibration, or nuclear or electromagnetic radiation or due to the likelihood of injury to persons or damage to property if an accident occurs.
- C. Development regulations.
  - (1) Setback requirements.
    - (a) The minimum setback from the high water mark of the river shall be 200 feet for principal and accessory buildings.
    - (b) Structures demonstrated to be directly related to the Salmon River may be authorized within the required setback distance; however, the Planning Board shall have the authority to impose additional conditions at the time of site plan review as may be warranted such as buffering or screening.
  - (2) Riparian area vegetated buffer. Riparian areas shall be maintained with a natural vegetation strip on each parcel or lot between the normal high water mark of the river and a point 100 feet from and perpendicular to the normal high water mark. Removal of

vegetation in the riparian area shall require a special permit in accordance with the following requirements:

- (a) No clear-cutting shall be allowed.
- (b) One hundred percent of the vegetation strip may be selectively thinned as follows. No more than 35% of the number of trees six inches in diameter at 4.5 feet above the ground, or larger, shall be cut in any ten-year period. No more than 25% of trees four inches in diameter at 4.5 feet above the ground, or larger, shall be cut in any ten-year period. Additional trees may be removed if the applicant can demonstrate one or more of the following conditions:
  - [1] It is clearly necessary for traffic safety.
  - [2] It is clearly necessary for the development of an approved principal or accessory use or building, street, sidewalk, paved area, driveway, stormwater facility, utility or sewage system.
  - [3] It is within 25 feet of the foundation of an approved structure.
  - [4] It is diseased, dead or poses a clear danger to public safety, structure, utility or public improvement.
  - [5] It is related to agricultural activities, such as orchards or cultivation activities.
- (c) Existing soil and organic matter shall not be altered or disturbed within the vegetation strip except in connection with an activity otherwise permitted.
- (d) No structures shall be permitted within the vegetation strip, with the exception of docks, boat ramps, bulkhead, pump houses, utilities, pervious walkways, and elevated walkways which provide the property owner with reasonable access to the water. Park-related furnishings (benches, picnic tables, pavilions, refuse containers, etc.) and vehicular parking areas shall be permitted, if associated with public recreation areas or public access to the river.
- (e) No potentially polluting material, including but not limited to lawn clippings, leaves, garbage, refuse containers, junk cars, junk appliances, or toxic materials, may be dumped or stored within the natural vegetation strip. The vegetation strip shall not contain commercial or industrial storage or display, manufacturing or processing activity, loading and unloading areas or vehicular parking areas.
- (f) Where there is no preexisting natural vegetation, new development requiring Planning Board approval pursuant to this section or Site Plan Review shall include vegetation which shall screen the proposed development from the water and any existing waterfront trails or pathways. The width of this revegetated strip should

be at least 75 feet from the high water mark of the river. The plant material should consist of indigenous trees, shrubs, and grasses.

- (g) Reasonable efforts shall be taken during construction to ensure that trees protected by this section are not accidentally injured or removed, including root compaction by equipment or change in grade level. The developer shall replace any protected trees which are destroyed or injured with mature trees of similar diameter.
- (3) Protection of water quality.
  - (a) There shall be no disturbance of existing Federal and New York State wetlands as identified by the NYS Department of Environmental Conservation located within this WO District unless appropriate mitigation measures are defined and approved pursuant to a permit from the Department of Environmental Conservation and US Army Corp of Engineers.
  - (b) Stormwater and sedimentation control shall be guided by the standards of the New York Standards and Specifications for Erosion and Sediment Control, the New York State Stormwater Management Design Manual and the Town/Village of Malone Stormwater Management and Erosion and Sediment Control Law.
- (4) Docks and water surface use.
  - (a) Not more than one dock shall be permitted per residence.
  - (b) Multiple boat slips may be clustered.
  - (c) Bulkhead docks or off-channel basins are preferred for permanent docking.
- (5) Agricultural activities.

Soil shall not be tilled within 100 feet of the high water mark of the river or within 100 feet of direct tributaries that are within the WO District.

- (6) Additional requirements and standards.
  - (a) Parking, fences and signs shall not detract from water views and are subject to regulations contained in the zoning ordinance. The following signs are prohibited within 300 feet of the river:
    - [1] Off-premises signs such as billboards.
    - [2] Freestanding signs on site with a total height of greater than 12 feet above the surrounding average ground level or a sign area of greater than 40 square feet.

- [3] Signs intended to be towed from one location to another.
- (b) Development shall not interfere with or in any way prohibit, hinder or discourage the public use of waterfront trails.
- (c) New development shall provide opportunities for trail linkages as identified in the Town/Village of Malone Local Waterfront Revitalization Plan. Any easement or trail construction should accommodate a pedestrian walkway or pathway having a right of way width of at least twenty (20) feet along the length of and abutting the Salmon River shoreline.
- (c) When located adjacent to historic structures, new buildings shall reflect the architectural character of the existing historic structure.

#### D. Site plan.

Any proposed principal building or any proposed or expanded paved area larger than 5,000 square feet that would be partially or entirely located within the WO District shall be submitted for review by the Planning Board. Site plan review shall be conducted in accordance with the procedures established in the zoning ordinance.

## **APPENDIX D**

## VILLAGE OF MALONE WATERFRONT OVERLAY DISTRICT

## Village of Malone Waterfront Overlay District

A local law to establish standards for protecting the natural, scenic, and historic values of the Salmon River while encouraging compatible land uses along the waterfront.

- A. Purpose and intent.
  - (1) The Village intends to protect a scenic corridor along the Salmon River and its tributaries, in accordance with the Town and Village of Malone Local Waterfront Revitalization Plan. The purpose of the district is to maintain a green, undeveloped corridor along much of the Village's waterfront and to provide a consistent level of protection of the visual, environmental and historic resources within this corridor.
  - (2) The existing vegetation along the Salmon River is effective in creating a secluded natural experience for waterfront land owners, boaters, hikers and other waterfront users. In addition, a vegetative buffer reduces the velocity and volume of stormwater runoff entering the River, increases infiltration, decreases erosion, and protects water quality. Vegetation filters out pollutants, including nutrients from fertilizers and agricultural pesticides. Therefore protection of the Salmon River waterfront is critical to its users as well as its ecology.
  - (3) The Waterfront Overlay (WO) District is overlayed onto existing zoning districts. All provisions of the underlying districts remain in full force, except where provisions of the WO District differ. In such cases, the more restrictive provision shall apply. The principal control mechanisms of the WO are construction setbacks from the waterline, restrictions on the removal of natural vegetation within an established buffer zone adjacent to the water, and performance standards governing land use activities within the district. The WO will extend two-hundred (200) feet from the Salmon River high water mark.
  - (4) The specific purposes of this district include the following:
    - (a) To preserve natural, scenic, and historic values along the Salmon River.
    - (b) To preserve woodlands, wetlands, and other green space.
    - (c) To regulate uses and structures along the Salmon River to avoid increased erosion and sedimentation.
    - (d) To encourage compatible land uses along the Salmon River.

- (e) To recognize areas of significant environmental sensitivity that should not be intensely developed.
- (f) To allow reasonable uses of lands while directing more intense development to the most appropriate areas of the community.
- B. Permitted uses; prohibited uses.
  - (1) The underlying zoning district determines the permitted principal uses, accessory uses and special permit uses within the Waterfront Overlay District. Underlying districts within the WO District include those districts located within 200 feet of the high water mark.
  - (2) The following uses, however, are specifically prohibited within the WO District:
    - (a) Junkyards and solid waste disposal or processing facilities.
    - (b) Mineral extraction or surface mining.
    - (c) Freight or truck terminals.
    - (d) Bulk fuel storage.
    - (e) Bulk industrial chemical storage or processing.
    - (f) Uses which may be noxious or injurious due to the production or emission of dust, smoke, odor, gases, fumes, solid or liquid waste, noise, light, vibration, or nuclear or electromagnetic radiation or due to the likelihood of injury to persons or damage to property if an accident occurs.
- C. Development regulations.
  - (1) Setback requirements.
    - (a) The minimum setback from the high water mark of the river shall be 200 feet for principal and accessory buildings.
    - (b) Structures demonstrated to be directly related to the Salmon River may be authorized within the required setback distance; however, the Planning Board shall have the authority to impose additional conditions at the time of site plan review as may be warranted such as buffering or screening.
  - (2) Riparian area vegetated buffer. Riparian areas shall be maintained with a natural vegetation strip on each parcel or lot between the normal high water mark of the river and a point 100 feet from and perpendicular to the normal high water mark. Removal of

vegetation in the riparian area shall require a special permit in accordance with the following requirements:

- (a) No clear-cutting shall be allowed.
- (b) One hundred percent of the vegetation strip may be selectively thinned as follows. No more than 35% of the number of trees six inches in diameter at 4.5 feet above the ground, or larger, shall be cut in any ten-year period. No more than 25% of trees four inches in diameter at 4.5 feet above the ground, or larger, shall be cut in any ten-year period. Additional trees may be removed if the applicant can demonstrate one or more of the following conditions:
  - [1] It is clearly necessary for traffic safety.
  - [2] It is clearly necessary for the development of an approved principal or accessory use or building, street, sidewalk, paved area, driveway, stormwater facility, utility or sewage system.
  - [3] It is within 25 feet of the foundation of an approved structure.
  - [4] It is diseased, dead or poses a clear danger to public safety, structure, utility or public improvement.
  - [5] It is related to agricultural activities, such as orchards or cultivation activities.
- (c) Existing soil and organic matter shall not be altered or disturbed within the vegetation strip except in connection with an activity otherwise permitted.
- (d) No structures shall be permitted within the vegetation strip, with the exception of docks, boat ramps, bulkhead, pump houses, utilities, pervious walkways, and elevated walkways which provide the property owner with reasonable access to the water. Park-related furnishings (benches, picnic tables, pavilions, refuse containers, etc.) and vehicular parking areas shall be permitted, if associated with public recreation areas or public access to the river.
- (e) No potentially polluting material, including but not limited to lawn clippings, leaves, garbage, refuse containers, junk cars, junk appliances, or toxic materials, may be dumped or stored within the natural vegetation strip. The vegetation strip shall not contain commercial or industrial storage or display, manufacturing or processing activity, loading and unloading areas or vehicular parking areas.
- (f) Where there is no preexisting natural vegetation, new development requiring Planning Board approval pursuant to this section or Site Plan Review shall include vegetation which shall screen the proposed development from the water and any existing waterfront trails or pathways. The width of this revegetated strip should

be at least 75 feet from the high water mark of the river. The plant material should consist of indigenous trees, shrubs, and grasses.

- (g) Reasonable efforts shall be taken during construction to ensure that trees protected by this section are not accidentally injured or removed, including root compaction by equipment or change in grade level. The developer shall replace any protected trees which are destroyed or injured with mature trees of similar diameter.
- (3) Protection of water quality.
  - (a) There shall be no disturbance of existing Federal and New York State wetlands as identified by the NYS Department of Environmental Conservation located within this WO District unless appropriate mitigation measures are defined and approved pursuant to a permit from the Department of Environmental Conservation and US Army Corp of Engineers.
  - (b) Stormwater and sedimentation control shall be guided by the standards of the New York Standards and Specifications for Erosion and Sediment Control, the New York State Stormwater Management Design Manual and the Town/Village of Malone Stormwater Management and Erosion and Sediment Control Law.
- (4) Docks and water surface use.
  - (a) Not more than one dock shall be permitted per residence.
  - (b) Multiple boat slips may be clustered.
  - (c) Bulkhead docks or off-channel basins are preferred for permanent docking.
- (5) Agricultural activities.

Soil shall not be tilled within 100 feet of the high water mark of the river or within 100 feet of direct tributaries that are within the WO District.

- (6) Additional requirements and standards.
  - (a) Parking, fences and signs shall not detract from water views and are subject to regulations contained in the zoning ordinance. The following signs are prohibited within 300 feet of the river:
    - [1] Off-premises signs such as billboards.
    - [2] Freestanding signs on site with a total height of greater than 12 feet above the surrounding average ground level or a sign area of greater than 40 square feet.

- [3] Signs intended to be towed from one location to another.
- (b) Development shall not interfere with or in any way prohibit, hinder or discourage the public use of waterfront trails.
- (c) New development shall provide opportunities for trail linkages as identified in the Town/Village of Malone Local Waterfront Revitalization Plan. Any easement or trail construction should accommodate a pedestrian walkway or pathway having a right of way width of at least twenty (20) feet along the length of and abutting the Salmon River shoreline.
- (c) When located adjacent to historic structures, new buildings shall reflect the architectural character of the existing historic structure.

#### D. Site plan.

Any proposed principal building or any proposed or expanded paved area larger than 5,000 square feet that would be partially or entirely located within the WO District shall be submitted for review by the Planning Board. Site plan review shall be conducted in accordance with the procedures established in the zoning ordinance.

# **APPENDIX E**

# TOWN OF MALONE STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL LAW

### Town of Malone Stormwater Management and Erosion and Sediment Control Law

A local law to establish regulations regarding requirements for stormwater management, erosion and sediment control in the Town of Malone.

Be it enacted by the Town Board of the Town of Malone as follows:

#### **Article 1. General Provisions**

#### Section 1. Definitions

The terms used in this local law or in documents prepared or reviewed under this local law shall have the meaning as set forth in this section.

**Agricultural Activity** - the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

**Applicant** - a property owner or agent of a property owner who has filed an application for a land development activity.

**Building** - any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area. **Channel** - a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clearing - any activity that removes the vegetative surface cover.

**Dedication** - the deliberate appropriation of property by its owner for general public use. **Department** - the New York State Department of Environmental Conservation

**Design Manual** - the *New York State Stormwater Management Design Manual*, most recent version including applicable updates, serves as the official guide for stormwater management principles, methods and practices.

Developer - a person who undertakes land development activities.

**Erosion Control Manual** - the most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book." **Grading** - excavation or fill of material, including the resulting conditions thereof.

**Impervious Cover** - those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**Industrial Stormwater Permit** - a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies. **Infiltration** - the process of percolating stormwater into the subsoil.

**Jurisdictional Wetland** - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**Land Development Activity -** construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**Landowner** - the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**Maintenance Agreement** - a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**Nonpoint Source Pollution** - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources. **Phasing** - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**Pollutant of Concern** - sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

Project - land development activity

**Recharge** - the replenishment of underground water reserves.

Sediment Control - measures that prevent eroded sediment from leaving the site.

**Sensitive Areas -** cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species. **SPDES General Permit for Construction Activities GP-02-01** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02 -** A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

Stabilization - the use of practices that prevent exposed soil from eroding.

**Stop Work Order** - an order issued which requires that all construction activity on a site be stopped.

Stormwater - rainwater, surface runoff, snowmelt and drainage

**Stormwater Hotspot** - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

**Stormwater Management** - the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

**Stormwater Management Facility -** one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

**Stormwater Management Officer -** an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices

**Stormwater Management Practices (SMPs)** - measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**Stormwater Pollution Prevention Plan (SWPPP)** - a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

Stormwater Runoff - flow on the surface of the ground, resulting from precipitation.

**Surface Waters of the State of New York -** lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or

partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**Watercourse** - a permanent or intermittent stream or other body of water, either natural or manmade, which gathers or carries surface water.

Waterway - a channel that directs surface runoff to a watercourse or to the public storm drain.

#### Section 2. Findings of Fact

It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

#### Section 3. Purpose

The purpose of this local law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in Section 2 hereof. This local law seeks to meet those purposes by achieving the following objectives:

- A. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised;
- B. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- C. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- D. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- E. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and ensure that these management practices are properly maintained and eliminate threats to public safety.

#### Section 4. Statutory Authority

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town Board of Malone has the authority to enact local laws and amend local laws for the purpose of promoting the health, safety or general welfare of the Town of Malone and for the protection and enhancement of its physical environment. The Town Board of Malone may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

#### Section 5. Applicability

This local law shall be applicable to all land development activities as defined in Section 1.

- A. The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the Town Board of the Town of Malone, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.
- B. All land development activities subject to review and approval by the Planning Board of the Town of Malone under shall be reviewed subject to the standards contained in this local law.
- C. All land development activities not subject to review as stated in Section 5 B shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

#### Section 6. Exemptions

The following activities may be exempt from review under this law.

- A. Agricultural activity as defined in this local law, except that landing areas and log haul roads are subject to this law.
- B. Routine maintenance activities that disturb less than one acre and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- C. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater
- D. Management Officer.
- E. Any part of a subdivision if a plat for the subdivision has been approved by the Town of Malone on or before the effective date of this law.
- F. Land development activities for which a building permit has been approved on or before the effective date of this law.
- G. Cemetery graves.
- H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- I. Emergency activity immediately necessary to protect life, property or natural resources.
- J. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- K. Landscaping and horticultural activities in connection with an existing structure that disturb less than one acre.

#### Section 7. Stormwater Pollution Prevention Plans

#### A. Stormwater Pollution Prevention Plan Requirement

No application for approval of a land development activity shall be approved until the appropriate board has received and reviewed a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

#### **B.** Contents of Stormwater Pollution Prevention Plans

- 1. All SWPPPs shall provide the following background information and erosion and sediment controls:
  - a. Background information about the scope of the project, including location, type and size of project.
  - b. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent

offsite surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);

- c. Description of the soil(s) present at the site;
- d. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
- e. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
- f. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill-prevention and response;
- g. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
- h. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- i. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- j. Temporary practices that will be converted to permanent control measures;
- k. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
- 1. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- m. Name(s) of the receiving water(s);
- n. Delineation of SWPPP implementation responsibilities for each part of the site;
- o. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
- p. Any existing data that describes the stormwater runoff at the site.
- 2. Land development activities as defined in Section 1 of this Article and meeting Condition "A", "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section 7 (B) (3) below as applicable:
- <u>Condition A</u> Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

<u>Condition B</u> - Stormwater runoff from land development activities disturbing five (5) or more acres.

- $\frac{\text{Condition C}}{\text{Condition C}}$  Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.
- 3. SWPPP Requirements for Condition A, B and C:
  - a. All information in Section 7 (B) (1) of this local law
  - b. Description of each post-construction stormwater management practice;
  - c. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
  - d. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms
  - e. Comparison of post-development stormwater runoff conditions with pre-development conditions
  - f. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
  - g. Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice.
  - h. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
  - i. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article 2, Section 4 of this local law.
  - j. For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

# C. Other Environmental Permits

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

# **D.** Contractor Certification

- 1. Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
- 2. The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

- 3. The certification statement(s) shall become part of the SWPPP for the land development activity.
- **E.** A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

# Section 8. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control

All land development activities shall be subject to the following performance and design criteria:

- **A. Technical Standards -** For the purpose of this local law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:
  - 1. The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)
  - 2. New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

# **B.** Equivalence to Technical Standards

Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Section 8 A and the SWPPP shall be prepared by a licensed professional.

# C. Water Quality Standards

Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

#### Section 9. Maintenance, Inspection and Repair of Stormwater Facilities

#### A. Maintenance and Inspection During Construction

- 1. The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- 2. For land development activities as defined in Section 1 of this Article and meeting Condition A, B or C in Section 7 (B) (2), the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment

control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book.

3. The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.

#### **B.** Maintenance Easement(s)

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Malone to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Malone.

#### **C.** Maintenance after Construction

The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:

- 1. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
- 2. Written procedures for operation and maintenance and training new maintenance personnel.
- 3. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 8 C.

#### **D.** Maintenance Agreements

The Town of Malone shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this local law entitled Sample Stormwater Control Facility Maintenance Agreement. The Town of Malone, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

#### Article 2. Administration and Enforcement

#### **Section 1. Construction Inspection**

Inspections as may be required under this local law may be performed by the Town of Malone Stormwater Management Officer, or the local government may designate an inspector required to have a Professional Engineer's (PE) license or Certified Professional in Erosion and Sediment Control (CPESC) certificate. When such an inspector is designated, said inspector is required to submit a report to be kept of file with the stormwater pollution prevention plan (SWPP).

### A. Erosion and Sediment Control Inspection

The Town of Malone Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Malone enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- 1. Start of construction
- 2. Installation of sediment and erosion control measures
- 3. Completion of site clearing
- 4. Completion of rough grading
- 5. Completion of final grading
- 6. Close of the construction season
- 7. Completion of final landscaping
- 8. Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

#### **B.** Stormwater Management Practice Inspections

The Town of Malone Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

#### C. Inspection of Stormwater Facilities After Project Completion

Inspection programs shall be established on any reasonable basis, including but not limited to:

- 1. routine inspections
- 2. random inspections
- 3. inspections based upon complaints or other notice of possible violations
- 4. inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants
- 5. inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit
- 6. joint inspections with other agencies inspecting under environmental or safety laws

Inspections may include, but are not limited to:

- 1. reviewing maintenance and repair records
- 2. sampling discharges, surface water, groundwater, and material or water in drainage control facilities
- 3. evaluating the condition of drainage control facilities and other stormwater management practices

### **D.** Submission of Reports

The Town of Malone Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

#### E. Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town of Malone, or its designated inspector, the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph C.

#### Section 2. Performance Guarantee

#### A. Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Malone in its approval of the Stormwater Pollution Prevention Plan, the Town of Malone may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Malone as the beneficiary. The security shall be in an amount to be determined by the Town of Malone based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Malone, provided that such period shall not be less than one year from the date of final acceptance or such other certifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Town of Malone. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

#### **B.** Maintenance Guarantee

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Malone with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and

sediment control facilities, the Town of Malone may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

# C. Recordkeeping

The Town of Malone may require entities subject to this law to maintain records demonstrating compliance with this law.

### Section 3. Enforcement and Penalties

#### A. Notice of Violation

When the Town of Malone determines that a land development activity is not being carried out in accordance with the requirements of this local law, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- 1. the name and address of the landowner, developer or applicant;
- 2. the address when available or a description of the building, structure or land upon which the violation is occurring;
- 3. a statement specifying the nature of the violation;
- 4. a description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;
- 5. a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- 6. a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

# **B.** Stop Work Orders

The Town of Malone may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the

Town of Malone confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

# C. Violations

Any land development activity that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.

# **D.** Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred

fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

# E. Withholding of Certificate of Occupancy

If any building or land development activity is installed or conducted in violation of this local law the

Code Enforcement Officer may prevent the occupancy of said building or land.

#### F. Restoration of lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Malone may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

#### Section 4. Fees for Services

The Town of Malone may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Malone or performed by a third party for the Town of Malone.

#### Section 5. Severability and Effective Date

#### A. Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

# **B.** Effective Date

This Local Law shall be effective upon filing with the office of the Secretary of State. Approved by: \_\_\_\_\_ Date \_\_\_\_\_

# Schedule A

Stormwater Management Practices Acceptable for Water Quality (From: New York State Stormwater Management Design Manual, Table 5.1)		
Group	Practice	Description
Pond	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to preven sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
Wetland	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
Infiltration	Infiltration Trench (I -1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
Filtering Practices	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F- 2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
Open Channels	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.

# Schedule B SAMPLE STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT

Whereas, the Municipality of the Town of Malone ("Municipality") and the \_\_\_\_\_\_ ("facility owner") want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Municipality for the below named project, and

Whereas, the Municipality and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Municipality and the facility owner agree as follows:

- 1. This agreement binds the Municipality and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.
- 2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.
- 3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
- 4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Municipality within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.
- 5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Municipality.
- 6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Municipality or in accordance with the recommendations of the inspecting engineer.
- 7. The facility owner shall provide to the Municipality within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of ( a Bond, letter of credit or escrow account).
- 8. This agreement shall be recorded in the Office of the County Clerk, County of Franklin together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to \_\_\_\_\_\_.
- 9. If ever the Municipality determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Municipality or by the inspecting engineer, the Municipality is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.

This agreement is effective \_\_\_\_\_, 20\_\_\_.

# **APPENDIX F**

# VILLAGE OF MALONE STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL LAW

### Village of Malone Stormwater Management and Erosion and Sediment Control Law

A local law to establish regulations regarding requirements for stormwater management, erosion and sediment control in the Village of Malone.

Be it enacted by the Village Board of the Village of Malone as follows:

#### **Article 1. General Provisions**

#### Section 1. Definitions

The terms used in this local law or in documents prepared or reviewed under this local law shall have the meaning as set forth in this section.

**Agricultural Activity** - the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

**Applicant** - a property owner or agent of a property owner who has filed an application for a land development activity.

**Building** - any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area. **Channel** - a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clearing - any activity that removes the vegetative surface cover.

**Dedication** - the deliberate appropriation of property by its owner for general public use. **Department** - the New York State Department of Environmental Conservation

**Design Manual** - the *New York State Stormwater Management Design Manual*, most recent version including applicable updates, serves as the official guide for stormwater management principles, methods and practices.

Developer - a person who undertakes land development activities.

**Erosion Control Manual** - the most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book." **Grading** - excavation or fill of material, including the resulting conditions thereof.

**Impervious Cover** - those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**Industrial Stormwater Permit** - a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies. **Infiltration** - the process of percolating stormwater into the subsoil.

**Jurisdictional Wetland** - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land Development Activity - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**Landowner** - the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**Maintenance Agreement** - a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**Nonpoint Source Pollution** - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources. **Phasing** - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**Pollutant of Concern** - sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

Project - land development activity

**Recharge** - the replenishment of underground water reserves.

Sediment Control - measures that prevent eroded sediment from leaving the site.

**Sensitive Areas -** cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species. **SPDES General Permit for Construction Activities GP-02-01** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02 -** A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

Stabilization - the use of practices that prevent exposed soil from eroding.

**Stop Work Order** - an order issued which requires that all construction activity on a site be stopped.

Stormwater - rainwater, surface runoff, snowmelt and drainage

**Stormwater Hotspot** - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

**Stormwater Management** - the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

**Stormwater Management Facility -** one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

**Stormwater Management Officer -** an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices

**Stormwater Management Practices (SMPs)** - measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**Stormwater Pollution Prevention Plan (SWPPP)** - a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

Stormwater Runoff - flow on the surface of the ground, resulting from precipitation.

**Surface Waters of the State of New York -** lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or

partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**Watercourse** - a permanent or intermittent stream or other body of water, either natural or manmade, which gathers or carries surface water.

Waterway - a channel that directs surface runoff to a watercourse or to the public storm drain.

#### Section 2. Findings of Fact

It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

#### Section 3. Purpose

The purpose of this local law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in Section 2 hereof. This local law seeks to meet those purposes by achieving the following objectives:

- A. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised;
- B. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- C. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- D. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- E. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and ensure that these management practices are properly maintained and eliminate threats to public safety.

#### Section 4. Statutory Authority

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Village Board of Malone has the authority to enact local laws and amend local laws for the purpose of promoting the health, safety or general welfare of the Village of Malone and for the protection and enhancement of its physical environment. The Village Board of Malone may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

#### Section 5. Applicability

This local law shall be applicable to all land development activities as defined in Section 1.

- A. The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the Village Board of the Village of Malone, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.
- B. All land development activities subject to review and approval by the Planning Board of the Village of Malone under shall be reviewed subject to the standards contained in this local law.
- C. All land development activities not subject to review as stated in Section 5 B shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

#### Section 6. Exemptions

The following activities may be exempt from review under this law.

- A. Agricultural activity as defined in this local law, except that landing areas and log haul roads are subject to this law.
- B. Routine maintenance activities that disturb less than one acre and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- C. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater
- D. Management Officer.
- E. Any part of a subdivision if a plat for the subdivision has been approved by the Village of Malone on or before the effective date of this law.
- F. Land development activities for which a building permit has been approved on or before the effective date of this law.
- G. Cemetery graves.
- H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- I. Emergency activity immediately necessary to protect life, property or natural resources.
- J. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- K. Landscaping and horticultural activities in connection with an existing structure that disturb less than one acre.

#### Section 7. Stormwater Pollution Prevention Plans

#### A. Stormwater Pollution Prevention Plan Requirement

No application for approval of a land development activity shall be approved until the appropriate board has received and reviewed a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

#### **B.** Contents of Stormwater Pollution Prevention Plans

- 1. All SWPPPs shall provide the following background information and erosion and sediment controls:
  - a. Background information about the scope of the project, including location, type and size of project.
  - b. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent

- c. Description of the soil(s) present at the site;
- d. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
- e. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
- f. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill-prevention and response;
- g. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
- h. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- i. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- j. Temporary practices that will be converted to permanent control measures;
- k. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
- 1. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- m. Name(s) of the receiving water(s);
- n. Delineation of SWPPP implementation responsibilities for each part of the site;
- o. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
- p. Any existing data that describes the stormwater runoff at the site.
- 2. Land development activities as defined in Section 1 of this Article and meeting Condition "A", "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section 7 (B) (3) below as applicable:
- <u>Condition A</u> Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

<u>Condition B</u> - Stormwater runoff from land development activities disturbing five (5) or more acres.

- $\frac{\text{Condition C}}{\text{Condition C}}$  Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.
- 3. SWPPP Requirements for Condition A, B and C:
  - a. All information in Section 7 (B) (1) of this local law
  - b. Description of each post-construction stormwater management practice;
  - c. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
  - d. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms
  - e. Comparison of post-development stormwater runoff conditions with pre-development conditions
  - f. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
  - g. Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice.
  - h. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
  - i. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article 2, Section 4 of this local law.
  - j. For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

# C. Other Environmental Permits

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

# **D.** Contractor Certification

- 1. Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
- 2. The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

- 3. The certification statement(s) shall become part of the SWPPP for the land development activity.
- **E.** A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

# Section 8. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control

All land development activities shall be subject to the following performance and design criteria:

- **A. Technical Standards -** For the purpose of this local law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:
  - 1. The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)
  - 2. New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

# **B.** Equivalence to Technical Standards

Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Section 8 A and the SWPPP shall be prepared by a licensed professional.

# C. Water Quality Standards

Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

#### Section 9. Maintenance, Inspection and Repair of Stormwater Facilities

#### A. Maintenance and Inspection During Construction

- 1. The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- 2. For land development activities as defined in Section 1 of this Article and meeting Condition A, B or C in Section 7 (B) (2), the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment

control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book.

3. The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.

#### **B.** Maintenance Easement(s)

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Village of Malone to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Village of Malone.

#### C. Maintenance after Construction

The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:

- 1. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
- 2. Written procedures for operation and maintenance and training new maintenance personnel.
- 3. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 8 C.

#### **D.** Maintenance Agreements

The Village of Malone shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this local law entitled Sample Stormwater Control Facility Maintenance Agreement. The Village of Malone, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

#### Article 2. Administration and Enforcement

#### **Section 1. Construction Inspection**

Inspections as may be required under this local law may be performed by the Village of Malone Stormwater Management Officer, or the local government may designate an inspector required to have a Professional Engineer's (PE) license or Certified Professional in Erosion and Sediment Control (CPESC) certificate. When such an inspector is designated, said inspector is required to submit a report to be kept of file with the stormwater pollution prevention plan (SWPP).

### A. Erosion and Sediment Control Inspection

The Village of Malone Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Village of Malone enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- 1. Start of construction
- 2. Installation of sediment and erosion control measures
- 3. Completion of site clearing
- 4. Completion of rough grading
- 5. Completion of final grading
- 6. Close of the construction season
- 7. Completion of final landscaping
- 8. Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

#### **B.** Stormwater Management Practice Inspections

The Village of Malone Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

#### C. Inspection of Stormwater Facilities After Project Completion

Inspection programs shall be established on any reasonable basis, including but not limited to:

- 1. routine inspections
- 2. random inspections
- 3. inspections based upon complaints or other notice of possible violations
- 4. inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants
- 5. inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit
- 6. joint inspections with other agencies inspecting under environmental or safety laws

Inspections may include, but are not limited to:

- 1. reviewing maintenance and repair records
- 2. sampling discharges, surface water, groundwater, and material or water in drainage control facilities
- 3. evaluating the condition of drainage control facilities and other stormwater management practices

#### **D.** Submission of Reports

The Village of Malone Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

#### E. Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Village of Malone, or its designated inspector, the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph C.

#### Section 2. Performance Guarantee

#### A. Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village of Malone in its approval of the Stormwater Pollution Prevention Plan, the Village of Malone may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village of Malone as the beneficiary. The security shall be in an amount to be determined by the Village of Malone based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Village of Malone, provided that such period shall not be less than one year from the date of final acceptance or such other certifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Village of Malone. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

#### **B.** Maintenance Guarantee

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Village of Malone with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and

erosion and sediment control facilities, the Village of Malone may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

# C. Recordkeeping

The Village of Malone may require entities subject to this law to maintain records demonstrating compliance with this law.

#### Section 3. Enforcement and Penalties

#### A. Notice of Violation

When the Village of Malone determines that a land development activity is not being carried out in accordance with the requirements of this local law, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- 1. the name and address of the landowner, developer or applicant;
- 2. the address when available or a description of the building, structure or land upon which the violation is occurring;
- 3. a statement specifying the nature of the violation;
- 4. a description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;
- 5. a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- 6. a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

# **B.** Stop Work Orders

The Village of Malone may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the

Village of Malone confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

# C. Violations

Any land development activity that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.

# **D.** Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred

fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

# E. Withholding of Certificate of Occupancy

If any building or land development activity is installed or conducted in violation of this local law the

Code Enforcement Officer may prevent the occupancy of said building or land.

#### F. Restoration of lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Village of Malone may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

#### Section 4. Fees for Services

The Village of Malone may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Village of Malone or performed by a third party for the Village of Malone.

#### Section 5. Severability and Effective Date

#### A. Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

# **B.** Effective Date

This Local Law shall be effective upon filing with the office of the Secretary of State. Approved by: \_\_\_\_\_ Date \_\_\_\_\_

# Schedule A

Stormwater Management Practices Acceptable for Water Quality (From: New York State Stormwater Management Design Manual, Table 5.1)		
Group	Practice	Description
Pond	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to preven sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
Wetland	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
Infiltration	Infiltration Trench (I -1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
Filtering Practices	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F- 2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
Open Channels	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.

# Schedule B SAMPLE STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT

Whereas, the Municipality of the Village of Malone ("Municipality") and the \_\_\_\_\_\_ ("facility owner") want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Municipality for the below named project, and

Whereas, the Municipality and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Municipality and the facility owner agree as follows:

- 1. This agreement binds the Municipality and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.
- 2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.
- 3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
- 4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Municipality within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.
- 5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Municipality.
- 6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Municipality or in accordance with the recommendations of the inspecting engineer.
- 7. The facility owner shall provide to the Municipality within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of ( a Bond, letter of credit or escrow account).
- 8. This agreement shall be recorded in the Office of the County Clerk, County of Franklin together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to \_\_\_\_\_\_.
- 9. If ever the Municipality determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Municipality or by the inspecting engineer, the Municipality is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.

This agreement is effective \_\_\_\_\_, 20\_\_\_.