



EAST LYME HARBOR MANAGEMENT PLAN

2019 Plan
Amendments

Draft For
Town Adoption

Harbor
Management
Commission

East Lyme,
Connecticut

March 2019

EAST LYME HARBOR MANAGEMENT PLAN 2019 PLAN AMENDMENTS

Draft for Town Adoption

EAST LYME HARBOR MANAGEMENT COMMISSION
East Lyme, Connecticut



Consultant to the Harbor Management Commission:

Geoffrey Steadman
Westport, Connecticut

March 2019

Adopted 1994; Amended 2019

FOREWORD

This document contains the *East Lyme Harbor Management Plan* (the Plan) duly approved by the State of Connecticut and adopted by the Town of East Lyme in 1994 and amended in 2019. The Plan has been prepared by the East Lyme Harbor Management Commission (HMC) in accordance with municipal authority provided by the Connecticut Harbor Management Act of 1984 (Sections 22a-113k through 22a-113t of the Connecticut General Statutes) and by the Town of East Lyme Harbor Management Ordinance establishing the duties and responsibilities of the HMC.

In accordance with Sec. 22a-113m of the Connecticut General Statutes, the Plan was reviewed by the U.S. Army Corps of Engineers (USACE), approved by the Connecticut commissioners of Environmental Protection and Transportation, and adopted by ordinance by the East Lyme Board of Selectmen in 1994. In 2019, Plan amendments prepared by the HMC to address changing conditions and circumstances affecting the East Lyme Harbor Management Area (HMA) have been duly approved and adopted according to the same procedure required to approve and adopt the original Plan, with one exception. As required by the General Statutes in 2019, Plan amendments required approval by the Connecticut Port Authority instead of the Commissioner of Transportation.

Included in the Plan are Town goals, policies, guidelines, and recommendations for beneficial use and conservation of the East Lyme HMA which includes all of the navigable waters and intertidal areas within the Town's municipal jurisdiction on the Niantic River, Niantic Bay, Pattagansett estuary, Four Mile River, and nearshore Long Island Sound.

A principal purpose of the Plan is to strengthen and maintain the Town's authority for managing use and conservation of the East Lyme HMA. That purpose is achieved through Town planning, regulatory, and other initiatives undertaken in coordination with state and federal agencies, notably the Connecticut Department of Energy and Environmental Protection (DEEP) and USACE.

Public and private activities affecting the HMA must be consistent with the Plan. The HMC is responsible for determining this consistency through a Harbor Management Consistency Review Process established in the Plan.

The Plan strengthens and maintains coordination among the different Town agencies with responsibilities affecting the HMA. It helps ensure that these agencies incorporate an awareness and understanding of harbor management concerns into their decisions, and that their actions are consistent with the Town goals, policies, guidelines, and recommendations established in the Plan.

The provisions of the Plan are consistent with and complement the provisions of the 2009 *East Lyme Plan of Conservation and Development*. Together, these two Town plans serve as the principal guides for land- and water-use on, in, and contiguous to the HMA.

Implementation of the Plan is an ongoing process that will continue to evolve in response to changing conditions and circumstances. The Plan establishes a policy and decision-making framework to guide the Town's actions, including case-by-case decision-making by the HMC, as well as the actions of other agencies. The framework is flexible and requires modification over time as conditions and circumstances change. To ensure that it responds to changing conditions, the Plan contains provisions for future amendment as needed.

ACKNOWLEDGMENTS

Many individuals contributed to preparation of *The East Lyme Harbor Management Plan* and the Plan's 2019 Amendments, including Town officials and residents of East Lyme, as well as representatives of state and federal agencies.

The Plan was prepared under the leadership of the East Lyme Harbor Management Commission (HMC)—the principal agency responsible for Plan implementation. In 2019, members of the East Lyme HMC are:

Stephen Dinsmore (Chairman)
Joseph Hitchery
Don MacKenzie
Rick Kanter
Donald Landers
William Montzoures
Greg Murin
Harbor Master Dick Morris (Ex-Officio)
Deputy Harbor Master Marc Burger

Many former members of the HMC deserve special thanks and recognition for their assistance over the years for preparation and implementation of the Plan including, most recently, former member Barbara Johnston who contributed significantly to preparation of the 2019 Plan Amendments.

In 2019, First Selectman Mark C. Nickerson provides leadership and direction for implementation of the Plan. Previous First Selectmen Paul M. Formica, Wayne Fraser, Beth Hogan, and David Cini also encouraged and supported Plan implementation. Mr. Cini, for whom the waterfront Cini Memorial Park is dedicated, served as First Selectman when the Plan was first adopted in 1994 and was the Board of Selectmen's first liaison to the HMC.

The Office of Long Island Sound Programs (OLISP) of the Connecticut Department of Environmental Protection, now the Department of Energy and Environmental Protection (DEEP), provided funding assistance for the first Plan. More recently, DEEP's Land and Water Resources Division (the OLISP's successor agency) provided valuable technical assistance and support for development of the 2019 Plan Amendments through the efforts of Marcia Balint, its liaison to the HMC.

L.R. Johnston Associates and Geoffrey Steadman, consultants to the HMC, worked at the HMC's direction to prepare the first Plan document. Mr. Steadman assisted the HMC with preparation of the 2019 Plan Amendments and prepared the 2019 Plan document. Keith Placko provided computer-aided mapping assistance.

Special thanks to the citizens of East Lyme who attend the HMC's public meetings and demonstrate their interest and support for management of the Town's waterfront and harbor resources through preparation and implementation of the Plan.

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Introduction and Plan Overview

In the Town of East Lyme in eastern Connecticut, the uniqueness and special character of the Town's coastal area on the Niantic River, Niantic Bay, the Pattagansett River, and Long Island Sound is unmistakable. East Lyme's coastal resources—including wetlands, intertidal flats, beaches, finfish and shellfish, and estuarine embayments—support boating and many other recreational activities; provide vital ecological functions and scenic values; enhance shore area neighborhoods; and contribute significantly to the quality of life for all. In addition, by supporting water-dependent businesses, attracting visitors to the Town, and enhancing property values, the coastal area is vitally important to the local and regional economy.

East Lyme's coastal area historically has not been subject to the same sorts of intense use and development pressures existing in some other coastal regions of the state. Town officials and agencies nonetheless have long appreciated that active involvement, long-term commitment, and thoughtful planning are needed to protect East Lyme's coastal resources and thereby preserve the traditional quality of life in the Town. Long-range planning along with public support is necessary to guide future use and development in a manner that will maintain and enhance resource values and provide for continued and sustainable public enjoyment of the Town's coastal waters and shoreline. Since 1994, the *East Lyme Harbor Management Plan* (the Plan) has provided an important foundation for the Town's efforts to achieve these goals.

East Lyme Harbor Management Commission and Harbor Management Plan

Recognizing the need for active Town involvement to protect the Town's coastal and waterfront resources and provide for their safe, equitable, and beneficial use, the Board of Selectmen established the seven-member East Lyme Harbor Management Commission (HMC) by Town Ordinance effective June 14, 1986. The East Lyme HMC was thereby given the power and duty to plan for the most desirable use of the tidal and navigable waters of the Town, and to otherwise carry out all of the powers and duties conferred on a municipal harbor management commission by the Connecticut General Assembly through legislation known as the Connecticut Harbor Management Act of 1984 (Sections. 22a-113k through 22a-113t of the Connecticut General Statutes). A copy of the Act is included as Appendix B of this Plan. The Town's current Harbor Management Ordinance is included as Appendix C.

The Town's area of municipal jurisdiction for harbor management purposes, defined in the Harbor Management Ordinance, includes the tidal waters and intertidal areas within the territorial limits of the Town waterward of the Mean High Water (MHW) line and bounded on the south in Long Island Sound by an imaginary line extending from Hatchett's Point easterly to the southerly end of Black Point and thence easterly to Millstone Point; on the west by the East Lyme/Old Lyme town boundary; and on the east by the East Lyme/Waterford town boundary. This area of jurisdiction, known as the East Lyme Harbor Management Area (HMA), includes that part of the Niantic River within the jurisdiction of the Town upstream to Banning Cove, including Smith Cove, as well as much of Niantic Bay, the Pattagansett River estuary, and nearshore areas of Long Island Sound in the vicinity of Giants Neck and Rocky Neck.

With authority provided by the General Statutes and the Town's Harbor Management Ordinance, the HMC prepared the *East Lyme Harbor Management Plan* establishing Town goals, policies, and other provisions for beneficial use of the East Lyme HMA for recreational, commercial, and other purposes, and for protection of the Town's natural coastal resources.

To prepare the Plan, the HMC sought input from interested citizens and organizations, Town officials, and local, state, and federal governmental agencies with roles and responsibilities affecting the HMA. Funding assistance for the planning process was provided to the Town by the Connecticut Department of Environmental Protection's Coastal Resources Management Division.¹ During the planning process the HMC held three special public meetings. The Plan was subsequently reviewed by the U.S. Army Corps of Engineers (USACE), approved by the State of Connecticut in September 1991, and subsequently adopted by the Board of Selectmen effective May 4, 1994. Along with the Plan, the Selectmen adopted an expanded Town Harbor Management Ordinance for use and enjoyment of the HMA.

The Plan complements the Town's Coastal Area Management Program, as well as the *East Lyme Plan of Conservation and Development* (POCD) and waterfront zoning regulations, by focusing on issues most pertinent to the safe, orderly, and beneficial use of the HMA and protection of the HMA's natural coastal resources. The provisions of the Plan are consistent with and complement the provisions of the POCD, and together these two Town plans function as the principal guides for use and conservation of East Lyme's coastal waters and shoreline.

Following adoption of the Plan, the HMC proceeded with its responsibilities for Plan implementation. Among those responsibilities, the HMC reviews proposals for activities affecting the HMA to determine the consistency of those proposals with the Plan; makes recommendations to the Board of Selectmen and other Town, state, and federal agencies for actions to advance the goals of the Plan; and oversees management of boat mooring locations by the State of Connecticut Harbor Master for East Lyme.

¹ The Department of Environmental Protection was renamed the Department of Energy and Environmental Protection (DEEP) in 2011; the agency's coastal planning and regulatory functions are now implemented by the DEEP's Land and Water Resources Division (LWRD) which succeeded DEEP's Office of Long Island Sound Programs (OLISP).

The East Lyme Harbor Management Plan 2019 Plan Amendments

Managing the East Lyme Harbor Management Area through implementation of the *East Lyme Harbor Management Plan* is a constant process that continues to evolve in response to changing conditions and circumstances. The Harbor Management Commission is responsible for conducting an ongoing examination of conditions in the East Lyme HMA and of the effectiveness of the Plan, and for proposing amendments to the Plan as necessary.

The process for amending the Plan is set forth in Sec. 22a-113m of the Connecticut General Statutes. Any amendments that may be proposed by the HMC must be submitted to the U.S. Army Corps of Engineers for review, comments, and recommendations; to the Connecticut Commissioner of Energy and Environmental Protection and Connecticut Port Authority for review and approval; and then to the Board of Selectmen for adoption.

In 2018, the HMC completed a comprehensive review of the Plan and conditions in the HMA, and prepared amendments to the Plan's goals, policies, area guidelines, and roles and responsibilities for Plan implementation. The amendments reflect changes to not only water and waterfront conditions in the HMA since the Plan was adopted, but also changes to the legislative and regulatory framework for harbor management in Connecticut, including changes in the coastal permitting program of the Department of Energy and Environmental Protection (DEEP) which now requires specific consultation with municipal harbor management commissions. Generally, the amendments update the Plan's provisions to reflect existing conditions and lessons learned during two decades of Plan implementation experience, and they renew the Town's commitment to harbor management in the future.

The amendments were reviewed by the U.S. Army Corps of Engineers, approved by the Connecticut Commissioner of Energy and Environmental Protection and the Connecticut Port Authority in September of 2018, and then adopted by the East Lyme Board of Selectmen effective [add effective date] 2019.

What Does the Harbor Management Plan Include?

In 2019, the Harbor Management Commission has re-published the *East Lyme Harbor Management Plan* to incorporate the duly approved and adopted 2019 Plan Amendments. The re-published document consists of the following parts, chapters, and appendices.

- **Part I: Background Information for the Harbor Management Plan.** Part I includes three chapters. Chapter One describes the coastal area setting and boundaries of the East Lyme Harbor Management Area and provides an overview of waterfront land-use and water-dependent facilities and activities. Chapter One also describes the division of the HMA into four harbor management sub-areas and a number of planning units. These planning units represent areas where specific harbor management recommendations have been and will continue to be applied. Chapter Two summarizes the “institutional framework” for harbor management—the agencies, laws, and programs affecting the HMA, and Chapter Three reviews harbor management issues and planning considerations addressed in the Plan.

- **Part II: The Harbor Management Plan.** Part II includes four chapters establishing the implementable provisions of the Plan. Chapter Four contains the Town's basic goals and strategies directed toward achieving balance among a number of equally important purposes, including encouragement of beneficial water-dependent use of the HMA and waterfront; conservation of environmental quality; and protection of the health, safety, and welfare of everyone who uses the HMA and waterfront.

Chapter Five sets forth more detailed harbor management policies. Applied throughout all areas of the HMA to guide all decisions affecting the HMA, the policies address issues and consideration related to: boating and water uses; public health, safety, and welfare; waterfront land-use and development; public access to the HMA; protection of coastal resources; and administration and financing for harbor management.

Chapter Six contains water-use plans and harbor management guidelines for each of several harbor management sub-areas and planning units identified within the larger HMA, including in the Niantic River, Bar and Bridge area at the mouth of the river; Niantic Bay, and Pattagansett River-Rocky Neck area.

Chapter Seven sets forth responsibilities for implementing the Plan, including responsibilities of Town, state, and federal governmental agencies.

- **Part III: Appendices.** The appendices include: a) a Glossary of Terms; b) the Connecticut Harbor Management Act; c) Town of East Lyme Harbor Management Ordinance; d) Landscape Protection and Visual Impacts Materials from the Office of Long Island Sound Programs; e) "Guidelines for the Placement of Fixed and Floating Structures in Waters of the U.S. Regulated by the New England District, U.S. Army Corps of Engineers;" f) Aerial Photos of the East Lyme Harbor Management Area; and g) Fact Sheet For Shoreline Flood and Erosion Control Structures from the Office of Long Island Sound Programs.

How is the Harbor Management Plan Implemented?

Implementation of the *East Lyme Harbor Management Plan* is an on-going, evolving process involving the coordinated actions of many Town, state, and federal agencies with programs and authorities that affect the East Lyme Harbor Management Area.

The Plan does not provide a specific answer to every issue that may arise in the HMA. Through its goals, objectives, policies, and guidelines, the Plan provides a decision-making framework to guide the Town's actions, including case-by-case decisions by the Harbor Management Commission, as well as the actions of state and federal agencies. Plan implementation is achieved primarily through actions of the Board of Selectmen, Harbor Management Commission, other Town agencies, the State of Connecticut Harbor Master for East Lyme, relevant state and federal agencies, and private groups and individuals.

- **Board of Selectmen.** The Board of Selectmen provides leadership and support for implementing the Plan. As the Town's legislative body, the Selectmen are responsible for adopting Town ordinances, including ordinances for safe and efficient operation of the HMA, and any fee schedules that may be recommended by HMC for mooring permits and other activities

within the scope of the Plan. The First Selectman, as the Town's Chief Executive Officer, encourages an active, ongoing, and coordinated Town role for managing the HMA in accordance with the Town Code and applicable Town plans and provisions. The Selectmen appoint the members of the HMC and are responsible for adopting any Plan amendments according to the process specified in the General Statutes and Town Code.

- **Harbor Management Commission.** Among its responsibilities established in the Plan and Town Code, the HMC plans for the most desirable use of the East Lyme HMA and otherwise pursues implementation of the Plan. The HMC conducts the Town's Harbor Management Consistency Review Process to review proposals affecting the HMA for consistency with the Plan and provide findings and recommendations to the responsible agencies. The HMC reviews applications to and by Town, state, and federal agencies, including, but not limited to, the Planning and Zoning Commission, Connecticut Department of Energy and Environmental Protection's Land and Water Resources Division (LWRD), and U.S. Army Corps of Engineers. In addition, the HMC serves in an advisory capacity on Town-supported planning and development initiatives that affect the HMA, and functions as the East Lyme Shellfish Commission with all of the powers and duties conferred on a municipal shellfish commission by the General Statutes.

The HMC also pursues a number of other responsibilities for managing the HMA in the public interest. In this regard, the HMC pursues initiatives to ensure continued boating and navigation safety in the HMA, reviews actions by the Harbor Master, and encourages and supports activities to increase public awareness concerning the HMA and Plan. The HMC also prepares an annual operating and capital budget and allocates harbor management funds, including funds collected pursuant to Sec. 22a-113s of the General Statutes to be used only for the maintenance and improvement of the HMA for the public and necessary expenses of the HMC and Harbor Master. In addition, the HMC encourages presentation and discussion of public concerns, including those of Town residents, business owners, boaters, fishermen, and environmentalists, related to the HMA and Plan, provides recommendations to the Governor for appointment of the State of Connecticut Harbor Master and Deputy Harbor Master for East Lyme, and acts as the Town's principal advocate for maintenance dredging, as needed, of the federal navigation channel.

- **Other Town Agencies.** Town agencies with their own authorities and responsibilities affecting the HMA, including the Planning and Zoning commissions, Conservation of Natural Resources Commission, Parks and Recreation Commission, Police Department, Fire Department, Water and Sewer Commission, Economic Development Commission, Public Works Department, and other Town contribute to Plan implementation by: 1) referral of applications for activities affecting the HMA to the HMC as part of the Harbor Management Consistency Review Process; 2) design of Town proposals affecting the HMA for consistency with the Plan; and 3) implementing their agency responsibilities affecting the HMA in a manner consistent with the Plan and in a manner that advances the Plan; and 4) generally working cooperatively with the HMC to achieve the Town goals established in the Plan.
- **State of Connecticut Harbor Master.** The East Lyme Harbor Master is appointed by the Governor of Connecticut and is responsible for the general care and supervision of the navigable waterways within the jurisdiction of the Town. In accordance with Sec. 15-1 of the

Connecticut General Statutes, the Harbor Master must exercise his or her duties in a manner consistent with the Plan. The Harbor Master, is an ex-officio member of the HMC without voting privileges, works cooperatively with the HMC to implement the Plan, and must carry out his or her duties in a manner consistent with the Plan.

- **State and Federal Agencies.** The principal state and federal agencies with authorities pertaining to the HMA are various units of the DEEP, Connecticut Port Authority, and USACE. Basic state and federal responsibilities for Plan implementation include: 1) review and approval of Plan amendments; 2) consideration of the HMC's recommendations with respect to applications for state and federal permits for activities affecting the HMA; and 3) coordination and cooperation with the HMA for Plan implementation. Pursuant to Sec. 22a-113n of the Connecticut General Statutes, a recommendation of the HMC with respect to a proposed activity shall be binding of any official of the state when making regulatory decisions or undertaking or sponsoring development affecting the HMA, unless such official shows cause why a different action should be taken.
- **Individuals and Organizations.** Individuals and organizations are involved with Plan implementation through their adherence to Town, state, and federal laws and regulations pertaining to use of the HMA. In addition, there are a number of voluntary (non-regulatory) initiatives for managing and enhancing the HMA that can be carried out by Town residents, waterfront property owners, the operators of water-dependent facilities, and others.

What are the Benefits of the Harbor Management Plan?

The Town realizes several fundamental benefits through the *East Lyme Harbor Management Plan*. First, and perhaps foremost, the Town's role relative to state and federal authorities for managing use and conservation of the East Lyme Harbor Management Area has been strengthened.

Prior to the Harbor Management Commission and the Plan, the Town's authority in the HMA was relatively limited. All tidal waters, submerged lands, and intertidal areas are held in trust by the State of Connecticut for the benefit of the general public. Most all activities that take place waterward of the Mean High Water Line (marking the boundary of the Town's planning and zoning authority) are subject to the control and jurisdiction of the State of Connecticut and Federal government, acting primarily through the Department of Energy and Environmental Protection and U.S. Army Corps of Engineers, respectively.

Through the HMC and Plan, East Lyme assumed an integral role in the planning and regulation of in-water and waterfront activities. Establishment of such municipal involvement is a significant aim of the Connecticut Harbor Management Act authorizing municipalities to create harbor management commissions and prepare harbor management plans. The Plan establishes a basic Town role in the state and federal regulatory decisions (pertaining to permits for docks, piers, and dredging, for example) that affect waterfront development, coastal resources, and the boating and other activities that take place in the HMA. Town, state, federal, and private actions affecting the HMA are to be consistent with the Plan. This consistency requirement is an important tool used by the Town to ensure that state and federal actions are consistent with conditions in the HMA and the Town's needs and interests.

The Plan does not replace existing state and federal programs that regulate in-water and waterfront activities. Nor does it give the HMC regulatory power to approve or deny the proposals that it reviews. The Plan does, however, provide a special mechanism whereby the HMC's findings must be considered and incorporated into the relevant state and federal regulatory programs. Without the Plan, there would be no formal mechanism or overall context to define the Town's involvement in the state and federal decisions affecting the HMA. Pursuant to Sec. 22a-113n of the Connecticut General Statutes, a recommendation pursuant to the Plan with respect to a proposed project shall be binding on any official of the State when making regulatory decisions or undertaking or sponsoring development affecting the HMA, unless such official shows cause why a different action should be taken.

In addition, the Plan provides other fundamental benefits by:

- Clarifying and formally establishing the Town's long-range vision for appropriate and beneficial use and conservation of the HMA, in coordination with the *East Lyme Plan of Conservation and Development*;
- Increasing coordination and cooperation among Town agencies and among the different Town, state, and federal agencies with responsibilities affecting the GHA;
- Facilitating increased involvement by the East Lyme Harbor Master for achieving Town goals for beneficial use and conservation of the HMA;
- Establishing a continuing local forum to give all citizens, officials, and businesses an opportunity to address issues concerning the HMA and Plan; and
- Providing a formal basis for applying operational funds needed to manage the HMA on an ongoing basis and for capital projects and other initiatives for beneficial use and conservation of the HMA.

An Ongoing Process in the Public Interest

Management of the East Lyme Harbor Management Area through implementation of the *East Lyme Harbor Management Plan* is an ongoing process that continues to develop in response to changing conditions and circumstances. The Harbor Management Commission works to implement the Plan while recognizing that the Plan does not identify every issue that is likely to affect the East Lyme HMA in the future, nor does it provide a definitive answer to every possible concern. The need for case-by-case decision-making remains, but the Plan provides a framework to guide this decision-making. The framework is flexible and requires modification over time as conditions change and responses to sometimes complicated harbor management issues continue to evolve. Within the policy and decision-making framework established by the Plan, the HMC acts to manage the use and conservation of the HMA in the public's interest and, where necessary, improve conditions in the HMA.

As East Lyme's harbor management initiatives continue to evolve in the years ahead, additional management provisions may be formulated to respond to changing circumstances. To accommodate this additional work, and to ensure that the Plan responds to changing conditions, the Plan will continue to be amended as needed.

The HMC, through its regularly scheduled and special meetings, will continue to provide an on-going forum to hear the concerns, questions, and thoughts of Town residents, waterfront property owners, water-dependent facility operators, and others concerning the HMA, waterfront, and the Plan.

NOTE:

Laws and regulations affecting the East Lyme Harbor Management Area, including laws and regulations enforced by agencies of the State of Connecticut, are subject to change and/or re-numbering. Persons affected by or otherwise interested in laws and regulations noted in The East Lyme Harbor Management Plan should consult current statutes and regulations and may contact the appropriate agency for the most up-to-date information on the status of current laws and regulations.

PART ONE:

**BACKGROUND INFORMATION FOR
THE EAST LYME HARBOR
MANAGEMENT PLAN**

- CHAPTER ONE: THE EAST LYME HARBOR MANAGEMENT AREA
- CHAPTER TWO: THE INSTITUTIONAL FRAMEWORK FOR
HARBOR MANAGEMENT
- CHAPTER THREE: HARBOR MANAGEMENT ISSUES
AND PLANNING CONSIDERATIONS



1

The East Lyme Harbor Management Area

The Town of East Lyme, consisting of the Villages of Flanders and Niantic, was incorporated in 1839, having been set off from Lyme to the west and Waterford to the east. At the same time, Niantic, which occupied the relatively flat lands along the shore of Long Island Sound, was primarily sparsely settled farmland. That soon changed, however, as the fishing industry flourished in the mid 1800s. As many as 50 fishing vessels sailed from Niantic, most specializing in halibut and cod from George's Bank. Businesses rapidly arose in support of the fishing industry, from boatyards along the Niantic River, to suppliers of cord wood, ice and bait for the boats.... The arrival of the railroad in 1852 brought many changes to Niantic. Ease of transportation allowed manufacturing to develop, and commerce shifted from the north end of town to the south. At the same time, people seeking escape from urban summers discovered the beauty of Niantic Bay. Hotels and restaurants were built to accommodate the tourists, and summer colonies were established on land that had only recently been farmed

East Lyme Historical Society

This chapter updates the original chapter titled "Chapter One: The East Lyme Harbor Management Area," included in the *East Lyme Harbor Management Plan* adopted by the Board of Selectmen in 1994.



TOWN OF EAST LYME
HARBOR MANAGEMENT PLAN
MARCH 2019

THE EAST LYME HARBOR MANAGEMENT AREA

This chapter describes the East Lyme Harbor Management Area (HMA) — the area subject to the jurisdiction of the East Lyme Harbor Management Commission (HMC) and the *East Lyme Harbor Management Plan* (the Plan). Included are an overview of the Town’s coastal area setting and a description of water and waterfront uses and coastal resources, including uses and resources in four harbor management sub-areas designated for the purpose of the Plan: 1) Niantic River Sub-Area; 2) Bar and Bridge Sub-Area; 3) Niantic Bay Sub-Area; and 4) Pattagansett-Rocky Neck Sub-Area.¹

COASTAL AREA SETTING AND MARITIME HISTORY²

East Lyme is a coastal New England town. Set on the north shore of Long Island Sound, alongside the Niantic River in southeastern Connecticut’s New London County, the Town is characterized by its beach communities, unspoiled coastal resources, the traditional seaside village of Niantic, quiet residential neighborhoods, and significant open spaces. East Lyme is served by the two major east-west interstate transportation arteries—the Connecticut Turnpike (I-95) and Amtrak’s Northeast Corridor Rail Line, and by state routes 156 and 161. (See maps 1-1 and 1-2.)

East Lyme is bounded on the west by the towns of Old Lyme and Lyme; on the east by the towns of Waterford and Montville; on the north by the Town of Salem; and on the south by Long Island Sound. The Town’s western boundary is about five miles east of the mouth of the Connecticut River; its eastern boundary is about five miles west of New London and the mouth of the Thames River. East Lyme’s total land area is about 42 square miles; in 2013, its population was estimated at 18,937.³

The oldest and most densely developed part of the Town is along its Long Island Sound shoreline which includes the Town’s commercial center in the Niantic Village and a number of beach neighborhoods first developed as summer communities. Population density within East Lyme’s coastal area is more than double the Town-wide average; approximately 30% of the year-round residents live in the coastal area.

¹ Some information in this section is from the description of the East Lyme coastal area in the *Town of East Lyme Plan of Conservation and Development 2009* available on the Town website at <http://eltownhall.com>.

² Some information in this section concerning the history of East Lyme is from material published by the East Lyme Historical Society. Additional information concerning the Town’s history may be reviewed on the society’s website (www.eastlymehistoricalsociety.org).

³ See “Connecticut Population Estimates as of July 1, 2013,” by the Connecticut Department of Public Health.



Map 1-1: Town of East Lyme on Eastern Long Island Sound.



Map 1-2: Town of East Lyme in Southeastern Connecticut

East Lyme's jurisdiction for municipal harbor management purposes were established by the Town's Harbor Management Ordinance adopted by the Board of Selectmen in 1986. (See Appendix C of this Plan document.) Included are the intertidal and sub-tidal areas waterward of the Mean High Water (MHW) line and "north of a line extending from Hatchett's Point easterly to the southerly end of Black Point and thence easterly to Millstone Point, easterly of the Old Lyme boundary line and westerly of the Waterford boundary line." For the purpose of the *East Lyme Harbor Management Plan* and to describe the jurisdiction of the East Lyme Harbor Management Commission, this area is known as the East Lyme Harbor Management Area. (See maps 1-3 and 1-4.)

East Lyme is part of the coastal area of the State of Connecticut as defined by the Connecticut Legislature in the Connecticut Coastal Management Act (Sections 22a-90 through 22a-112 of the Connecticut General Statutes.) Much of the Town's history, from its initial settlement in the mid-1600s to the present day, can be told in relationship to the coastal waters of Long Island Sound and the Niantic River.

The Western Nehantics, an Algonkian-speaking tribe whose territory covered land from the mouth of the river later named for them (the Niantic River) westward to the Connecticut River, were the first recorded inhabitants of this area. The coastal and estuarine environment provided these Native Americans with abundant oysters, finfish, and other seafood; the upland forests provided firewood, game, and shelter during the winter months; and the creeks flowing into Long Island Sound provided plentiful fresh water. Later, the salt marshes provided the European settlers with cordgrass and salt hay to sustain their livestock.

Throughout the 1700s, farming was the Town's principal enterprise. Grist mills, cider mills, and saw mills, along with mills to process cotton fibers and wool into rope and cloth, were built alongside dams on coastal creeks and rivers, including the Four Mile River, Pattagansett River, Latimer Brook, and the Niantic River.

When the Town was incorporated in 1839, set off from Lyme to the west and Waterford to the east, it still consisted primarily of farmland. By the mid-1800s, however, the Town had become a bustling fishing port. As many as 50 fishing vessels sailed from Niantic, most chasing halibut and cod on the Georges Bank. Businesses grew rapidly in support of the fishing industry, including shipyards along the Niantic River and suppliers of wood, ice, and bait for the fishing boats. In 1839, only two buildings stood along what is now Main Street in the Niantic Village; by 1867, there were 32.

When the railroad connected shoreline towns in 1852, it brought many changes to the Town. Manufacturing businesses took advantage of this new mode of transportation; commerce shifted from the north end of Town to the south. At the same time, people seeking escape from urban summers discovered the beauty of Niantic Bay. Hotels and restaurants were built to accommodate the tourists, and summer colonies were built on land that only recently had been farmed. Also, by the late 1800s East Lyme was renowned for its magnificent pink granite found in the ridges in the south end of Town. Until the 1950s, quarrying operations with docks on the Town's shoreline shipped granite for buildings and monuments throughout the country.

Through all of the changes that have occurred and continue to impact the Town, there is one major and constant influence that has affected East Lyme's growth and development since the first settlement. That influence is associated with the Town's coastal location on Long Island Sound and the Niantic River, a location that has provided East Lyme and its citizens with vital economic, environmental, and cultural opportunities and benefits throughout the Town's history.

In 2019, the Town's connection to the Sound and river are as vital as ever. The significance of the coastal area to the Town's character and quality of life is well recognized by Town residents, officials, and visitors. Coastal resources, including embayments and estuaries, beaches, rocky shorefront, wetlands, intertidal flats, islands, and shellfish resource areas, support boating and other recreational activities, enhance shorefront residential areas, and provide significant ecological functions as well as economic benefits.

SHORELINE CHARACTERISTICS

The straight-line distance between East Lyme's western and eastern boundaries is approximately four miles, but the coastline is quite irregular, creating many more miles of actual shoreline. In addition to the Niantic River, significant tributaries helping define the character of the shoreline are the Pattagansett River, Four Mile River, and Bride Brook. A series of prominent upland features also distinguish the Town's coastal area. These include the steep, bedrock ridges of Rocky Neck, Giants Neck, and Oswegatchie Hills, and the low, glacially formed peninsula of Black Point. Interspersed with these features are many small pocket beaches characteristic of the Connecticut coast. Most of the beaches and bluffs have been stabilized by structures such as groins, seawalls, and riprap. In the relatively undisturbed estuaries of the Pattagansett River, Four Mile River, and Bride Brook, significant expanses of tidal wetlands are present and structural modification of the coastline is less extensive.

A dominant coastal feature is the Niantic River—Niantic Bay estuarine system, where fresh water from the river mixes with salt water from Long Island Sound. The Niantic River watershed drains into Niantic Bay and Long Island Sound and covers about 31 square miles in the towns of East Lyme, Waterford, Montville, and Salem.

East Lyme's municipal boundary with Waterford generally follows the centerline of the Niantic River. The main body of the river's tidal estuary is separated from Niantic Bay by a long, narrow spit known as the Bar entirely within the boundaries of East Lyme. Just east of the Bar is the constricted channel through which the river flows into the bay. The tidal portion of the Niantic River extends upstream from the Bar for about three and one-half miles. In its lower reaches, the estuary is up to one-half mile wide and shallow (generally less than 10 feet as shown on navigation charts). Upstream, the river narrows and deepens, reaching depths of 22 feet. Two prominent coves on the river's East Lyme shore are Smith Cove, located about one mile north of the Bar, and Banning Cove, fed by Latimer Brook, at the northern end of the river's tidal reach. Between Smith Cove and Banning Cove, much of the Niantic River shoreline is defined by the steep and forested eastern slope of the Oswegatchie Hill.



THE NATION'S CHARTMAKER SINCE 1807
UNITED STATES - EAST COAST
CONNECTICUT

NORTH SHORE OF LONG ISLAND SOUND

NIANTIC BAY AND VICINITY

East Lyme Harbor Management Plan

East Lyme Harbor Management Commission
Town of East Lyme, Connecticut

Map 1-3:
Harbor Management Sub-Areas and Planning Units

March 2019

**NIANTIC RIVER
HARBOR MGMT.
SUB-AREA**

Upper Niantic River
Planning Unit

Smith Cove
Planning Unit

Lower Niantic
River
Planning Unit

The "Bar"
Planning Unit

Waterford

**BAR AND
BRIDGE
HARBOR
MGMT.
SUB-AREA**

Hole-in-the-Wall Beach
Planning Unit

McCook Point-
Crescent Beach
Planning Unit

Niantic Bay
Planning Unit

**NIANTIC BAY
HARBOR
MANAGEMENT
SUB-AREA**

Pattagansett Estuary
Planning Unit

Rocky Neck
Planning Unit

Giants Neck
Planning Unit

**PATTAGANSETT - ROCKY NECK
HARBOR MGMT. SUB-AREA**

Black Point
Planning Unit

Old Lyme

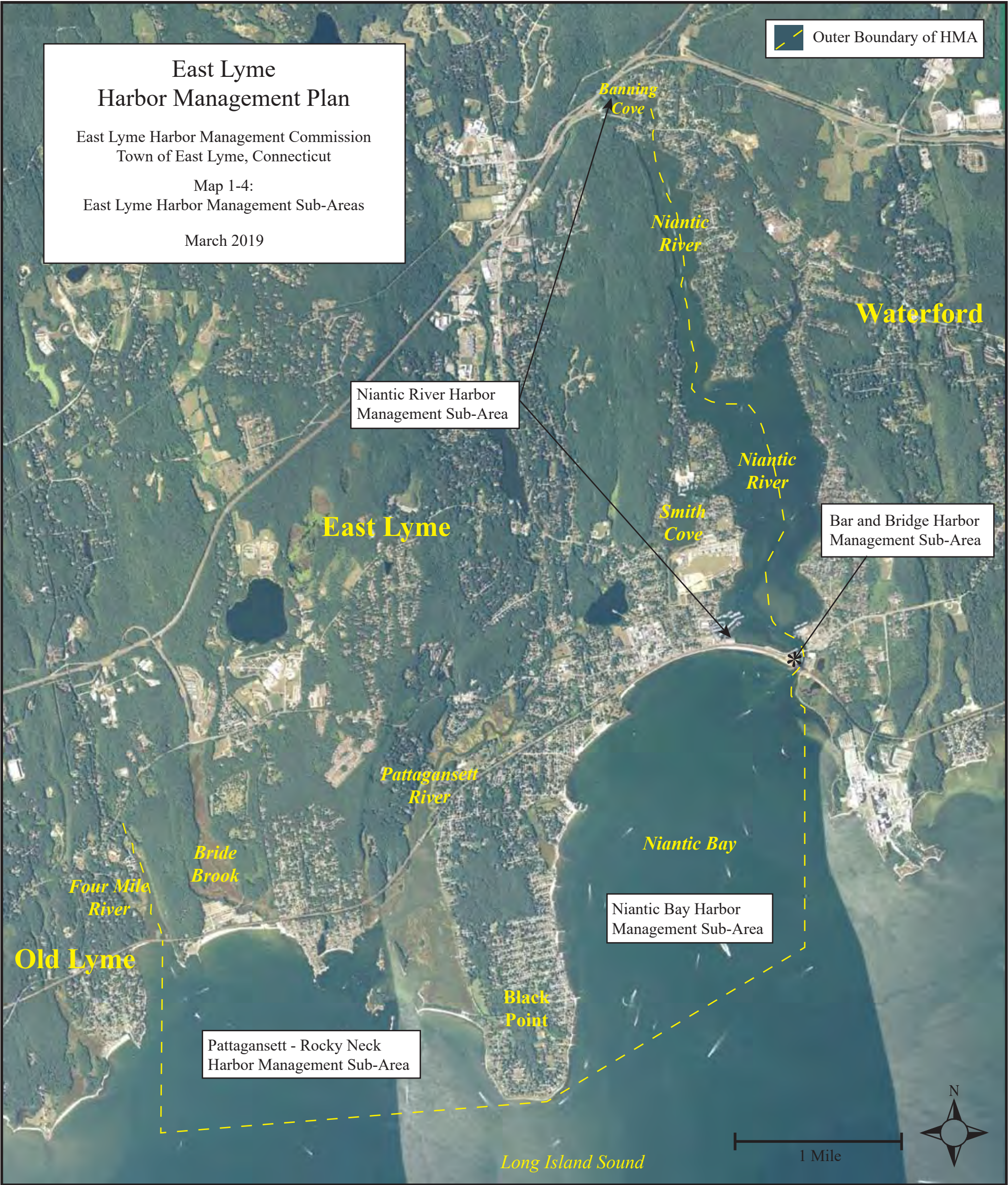
Long Island Sound

EAST LYME HARBOR MANAGEMENT AREA

NOTE: Boundaries of HMA, including the center line of the Niantic River, are shown for planning purposes only, not for regulatory or engineering purposes

1 Mile





NOTE: Boundaries of Harbor Management Area, including the center line of the Niantic River, are shown for planning purposes only, not for regulatory or engineering purposes.
ORTHOPHOTOGRAPHY: 2010 National Agricultural Imagery Program, (NAIP) provided by the Connecticut DEEP.

Black Point, a low, glacial till peninsula jutting prominently into Long Island Sound, dominates the central part of the East Lyme shoreline. To the east of Black Point is Niantic Bay, bounded by Black Point on the west and Waterford's Millstone Point on the east. Many small "pocket" beaches are located on the Black Point peninsula, along with groins and other structural shore protection works built in an effort to stabilize the beaches and bluffs.

On the Town's western border, the centerline of the Four Mile River forms East Lyme's boundary with the Town of Old Lyme. Immediately east of the Four Mile River, the coastal shoreline is characterized by the steep, bedrock ridges of Rocky Neck and Giants Neck and by numerous small islands and rocky outcrops. East of Giants Neck, the shallow Pattagansett River estuary includes the largest expanse of tidal wetlands in the Town's coastal area. The Black Pond Beach barrier beach and rocky islands at the river's mouth shelter the estuary from waves and high water generated in Long Island Sound.

SHOREFRONT DEVELOPMENT

With the exception of land with severe physical development constraints such as the Oswegatchie Hill, and land protected by state environmental laws, including the tidal wetland areas in the Pattagansett River estuary, much of the Town's coastal area has been developed in some form. Much of the Town's coastal area is zoned for residential use and has been developed accordingly. Notable exceptions include:

- Rocky Neck State Park, a 710-acre state-owned beach and recreational facility located between the Four Mile River and Giants Neck and drawing visitors from throughout southeastern Connecticut;
- McCook Point Park, a Town waterfront park on Niantic Bay including two separate beach areas — McCook Point Beach and Hole-in-the-Wall Beach;
- Niantic Village, the traditional center and principal commercial area of the Town, located along the lower reach of the Niantic River and containing the most concentrated area of marine commercial facilities, including marina and boatyard facilities, in the East Lyme Harbor Management Area;
- The Bar area, a coastal barrier separating the Niantic River estuary from Niantic Bay, including the Amtrak Rail Line, Route 156, along with the Town's Cini Memorial Park, Railroad Beach, Niantic River Boardwalk, and Niantic Bay Boardwalk, all providing public access to the estuary and Niantic Bay;
- Camp Niantic, an 81-acre, state-owned military reservation north of Niantic Village used for National Guard training; and
- Smith Cove marine commercial area on the north side of Smith Cove, occupied by marina and boatyard facilities.

Waterfront zoning districts include the CM marine commercial district to encourage the development of new and the retention of existing water-dependent uses in suitable locations, and applied also to public parks and public water-based recreational facilities; the TM tidal marsh district to preserve tidal wetlands and areas of high value as wildlife conservation and flood retention areas; and several residential districts, including the RU-120 rural residential district applied to areas characterized by severe constraints on development due to natural factors such as steep slopes, shallow depth to bedrock and high erosion potential. Areas to which the CM district is applied include: the marine commercial area of boatyards and marinas on the Niantic River in the Niantic Village; the north and south shores of Smith Cove; the entire Bar area including Cini Memorial Park; and McCook Point Park and Hole-in-the-Wall Beach. Tidal wetlands in the Pattagansett estuary are zoned TM, and the RU-120 district is applied to the Oswegatchie Hills.

WATER ACCESS

A number of areas and facilities on the Town's shoreline provide opportunities for access to the East Lyme Harbor Management Area and Long Island Sound. These include substantial waterfront parks, Town-owned and privately owned right-of-ways leading to the water; commercial boating facilities; private beach association properties; and private docks at waterfront homes.

The general public has access to the HMA for swimming, camping, hiking, picnicking, and fishing at Rocky Neck State Park. The park does not provide boating access to the HMA. Public boating access for trailered boats is provided at the Town's Grand Street boat launching ramp in the lower Niantic River marine commercial area. Parking for trailers and vehicles is limited at this location. A commercially operated boat launching ramp at Smith Cove is available to the general public for a fee.

Cini Memorial Park on the Bar at the mouth of the Niantic River is a focal point and central facility for public recreational activities on the East Lyme shoreline, providing public access to the Niantic River and, via a walkway under the railroad bridge, to Niantic Bay. Hand-carried vessels such as canoes and kayaks can be launched from the park. The park is linked to Niantic Village by the half-mile long Niantic River Boardwalk along the Bar's north shoreline.

On the Bar's south side, the Town-owned Railroad Beach provides for unsupervised swimming, fishing, shellfishing, walking, picnicking, and enjoyment of scenic views of Niantic Bay and Long Island Sound. The one-mile long Niantic Bay Boardwalk, also known as the Niantic Bay Overlook, parallels the Amtrak Rail Line, linking the Railroad Beach with Hole-in-the-Wall Beach to the west and, via the passageway under the railroad bridge, to Cini Memorial Park and the Niantic River Boardwalk on the Bar's north side.

Residents of East Lyme and nonresidents can obtain beach passes and parking permits from the Town's Recreation and Parks/Youth Services Department to use the Town beaches at McCook Point Park and Hole-In-The Wall Beach where they can enjoy opportunities for supervised swimming, fishing, shellfishing, walking, picnicking, boating access for hand-carried (car-top) vessels, and scenic views of Niantic Bay and Long Island Sound. In the Pattagansett River estuary, a "public beach" area identified as such on tax assessment maps is located on Brainard Island, accessible only by boat.

Additional water access opportunities are available through Town and privately owned right-of-ways extending to the HMA. Some of these right-of-ways once served as Town fire docks—donated by private owners to provide access for drawing water for fire-fighting purposes. While these areas no longer serve that purpose, they are available for emergency access to the HMA. Use of the existing water access right-of-ways and former fire docks for water access purposes is limited by lack of public parking space and, in some instances, by the private ownership of these areas.

Water access right-of-ways open to the general public and shown as Town-owned properties on maps prepared by the East Lyme Planning Department are found at Town Road, Laurel Street, South Street, and Grand Street on the Niantic River. Additional right-of-ways owned by private beach associations and others and thereby limited to use by certain property owners are found at Old Black Point Road, Osprey Road, and Sea Breeze Avenue extending to Niantic Bay; Smith Street, Round Rock Road, and Bishop's Bay Road ending on the Niantic River; and High Street extending to Smith Cove.

Eleven private beach associations own waterfront properties adjoining the HMA that provide access to the water and beaches for association members. These are the Attawan Beach Association, Black Point Beach Association, Crescent Beach Association, Giants Neck Association, Giants Neck Heights Beach Association, Old Black Point Association, Pine Grove Niantic Association, Gorton Lakes Shores Association, Oak Grove Association, Davis Beach Association, and Oswegatchie Hills Club (Saunders Point).

NAVIGATION CONDITIONS AND BOATING FACILITIES

Navigation in the East Lyme Harbor Management Area is influenced by weather, tide, and many other natural and man-made conditions. Tidal currents are most significant in Niantic Bay and the Niantic River. The narrow channel at the mouth of the river holds back the incoming tide, preventing a simultaneous rise of water level in the river. The mean range of tides at the mouth of the river is 2.62 feet. High tide in Niantic Bay occurs before the river has filled, and then the river continues to fill as long as the water level in the bay is greater. The same delay occurs at low tide, thus preventing the river from reaching as high or low a tide elevation as occurs in the bay. In the lower river, strong ebb and flood currents are encountered in the channel, with the strongest currents encountered in the narrow channel between the bridges. In the deeper water upriver, tidal currents are slight with directions often modified by wind currents.

Velocity measurements through the restricted channel vary slightly with each tidal cycle. Prior to construction of the existing railroad bridge in 2013 (see below), maximum velocities of 4.0 feet per second (fps) were measured at the former bridge location and 4.2 fps in the most narrow section of the waterway. Reversal of the current in the channel is abrupt, going from .83 fps during an ebb tide to .83 fps during a flood tide in approximately one hour.

While prevailing winds at East Lyme are southwesterly, the majority of storms approach the Town from easterly directions. The strongest winds may come from the north or northwest, but typically do not cause extensive shoreline damage due to their offshore direction. High winds from the south, southeast, and southwest cause the most significant shoreline erosion. Strong northerly

wind in the late winter and early spring can cause large tidal shifts in the Niantic and Pattagansett rivers resulting in extreme low water.

Water depths in the HMA vary significantly, from exposed intertidal flats in the Four Mile, Pattagansett, and Niantic Rivers to 38 feet at Mean Low Water (MLW) in Niantic Bay off Millstone Point, southeast of White Rock. Depths in Niantic Bay average about 18 feet at MLW as shown on navigation charts.

Of the three navigable waterways (the Niantic, Pattagansett, and Four Mile rivers) in the HMA, only the Niantic River is served by a federally authorized navigation channel. (See Map 1-5.) The federal channel, known as the Niantic Bay and Harbor Channel, begins in Niantic Bay and extends northeast for about 1800 feet to the Bar. This section of the channel has a congressionally authorized width of 100 feet and a depth of 8 feet at Mean Lower Low Water (MLLW). The railroad bridge and Route 156 highway bridge span the channel at the Bar. Both bridges are moveable and opened as necessary to allow vessels to pass.

North of the Bar, the navigation channel follows the river's meandering natural channel northward to a location opposite Saunders Point. This section of the channel also has an authorized width of 100 feet. Its authorized depth is six feet at MLLW, although some sections have greater, naturally occurring depths. Coast Guard-placed and maintained aids to navigation mark the channel.

Since construction and maintenance of federal navigation projects are funded by federal tax dollars, the U.S. Army Corps of Engineers (USACE), responsible for maintaining the channel, has a policy that all navigation projects must be "open to all on equal terms." This policy (see the section on the USACE in Chapter Two of this Plan document) is to ensure that all citizens have an equal opportunity to benefit from the projects.

North of the upstream limit of the federal channel, the Niantic River is navigable up to the Route 1 bridge over the river at Golden Spur. Near the bridge, the river is navigable only at high tide. Smith Cove is also navigable, and private aids to navigation mark the cove's privately maintained entrance channel from the Niantic River. The Pattagansett and Four Mile Rivers are navigable at high tide; private markers have been placed in the Four Mile River to mark the river's natural channel.

The East Lyme HMA supports many residential, commercial, and club-owned boating facilities, including docks, floats, piers, and moorings. Five of these facilities are open to the public; three are maintained by private clubs or association; and one is a "dockominium" facility where the individual boat slips are each privately owned. In 2018, commercial marina facilities included Boats Inc., Niantic River Transmission Marina, Port Niantic Marina, and Harbor Hill Marina in the lower Niantic River Marine Commercial Area, and Three Belles Marina on Smith Cove. The Niantic Dockominium is also located in the marine commercial area. The Black Hawk Dock providing scheduled group fishing excursions is docked on the East Lyme shoreline, alongside the Niantic River channel between the highway and railroad bridges. In addition, commercial marine facilities, including marinas and charter fishing boat operations, operate from the Waterford side of the river in the Mago Point area and alongside the channel between the highway and railroad bridges.

Private boating facilities in the HMA are maintained by the Niantic Bay Yacht Club, Giants Neck Beach Association, and Pattagansett Dock Association.

State boat launching ramps providing access to the HMA and available to the general public are established on the Waterford side of the Niantic River at Mago Point and on the west side of the Four Mile River in the Town of Old Lyme.

Pursuant to Article I, Sec. 5a of the East Lyme Harbor Management Ordinance, no vessel under power shall exceed a speed limit of 6 mph within: 1) the federal navigation channel; 2) 200 feet of shore in the Upper Niantic River north of the federal navigation channel; 3) the Pattagansett River Estuary Restricted Speed Area as marked by state speed limit signs; and 4) 100 feet of shore or any dock, pier, float or anchored or moored vessel in any other part of the Harbor Management Area. (See Map 6.)

COASTAL RESOURCES AND WATER QUALITY

The variety of coastal resources found in and adjacent to the East Lyme Harbor Management Area include, but are not limited to, the area's tidal waters and embayments, intertidal flats, tidal wetlands, beaches, islands, rocky shorefronts, floodplains, and living marine resources such as finfish and shellfish.⁴ In addition, the several tributaries and watersheds draining into the HMA through the Town have significant natural values and ecological functions. There is a fundamental relationship among the HMA, Long Island Sound, and the Niantic, Pattagansett, Four Mile, and Bride's Brook watersheds. For example, storm-water runoff from the watersheds eventually enters the HMA and Sound, affecting the quality of surface waters. The environmental quality of the Sound greatly depends on the environmental quality of its many tributaries and watersheds, including the watersheds draining into the HMA.

In addition to their natural values—for protecting water quality and providing fish and wildlife habitat, for example—East Lyme's coastal resources provide opportunities for beneficial use and have significant economic and cultural values, including recreational, historic, scientific, and educational values. They enhance the value of waterfront properties, for example, and provide opportunities for the variety of boating and other water-dependent activities that provide significant recreational and economic benefits to the Town and its citizens.

The location and extent of East Lyme's coastal resources were identified by the Town in the course of developing East Lyme's Municipal Coastal Program and may be reviewed in the Planning and Zoning Office.

⁴ Coastal resources are defined in Sec. 22a-93 of the Connecticut General Statutes and include coastal bluffs and escarpments, rocky shorefronts, beaches and dunes, intertidal flats, tidal wetlands, fresh-water wetlands and watercourses, estuarine embayments, coastal hazard areas, developed shore-front, islands, nearshore waters, offshore waters, shorelands, and shellfish concentration areas.

Intertidal resources in the HMA, including wetlands and intertidal flats subject to alternating periods of tidal inundation and exposure, are of particular ecological significance. As areas of high nutrient value and biological productivity, the wetlands provide detrital products which become the food of organisms living in Long Island Sound, including crabs, worms, snails, finfish and shellfish. Wetlands also provide habitat for shorebirds, including nesting, feeding, and refuge areas, and serve as the nursery ground for larval and juvenile forms of many of the Sound's marine organisms.

While tidal wetlands are found in many locations in the HMA, the most extensive wetland area is in the Pattagansett River estuary. The estuary's 170-acre tidal marsh is designated by the Connecticut Department of Energy and Environmental Protection (DEEP) as a natural area of statewide significance due to its extent, productivity, and relatively undisturbed condition.

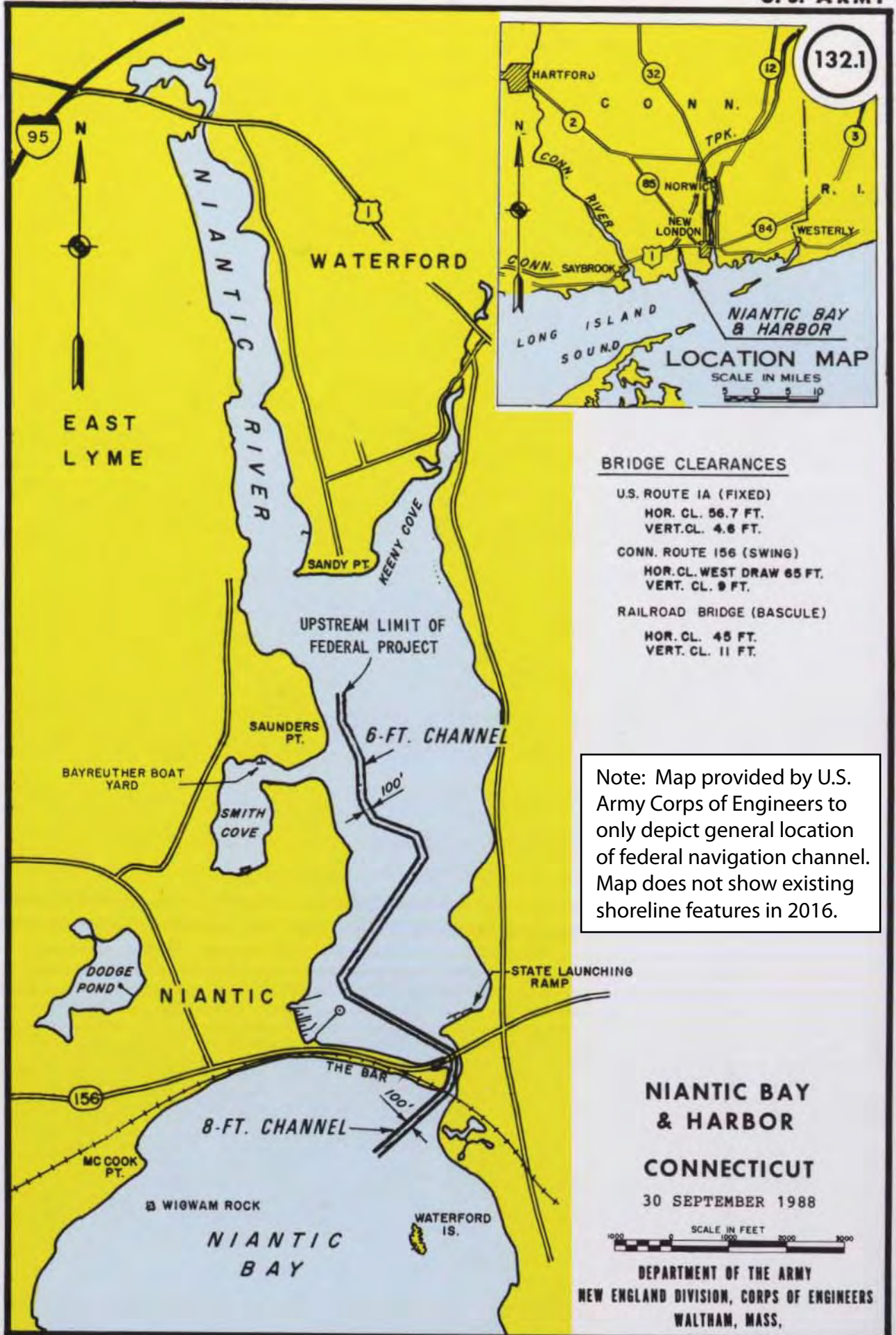
Black Point Beach at the mouth of the Pattagansett River is one of the few unaltered barrier beaches in Connecticut. The beach protects wetlands in the estuary from the erosive forces of high water and waves generated in Long Island Sound. As reported by the DEEP, the beach includes the highest elevated sand dunes in Connecticut. The protection from salt spray afforded by these dunes makes possible an extensive area of maritime scrub woodland vegetation on the landward side of this coastal barrier.

Intertidal flats are gently sloping or flat areas usually devoid of vegetation and composed of muddy, silty and fine sandy sediments. They are found along the shoreline throughout the HMA and provide natural values similar to the values provided by wetlands. Intertidal flats serve as sources and reservoirs of nutrients for a variety of marine organisms. Microflora and algae, along with decaying marsh plants, can contribute to a vast reservoir of fragmented organic matter or detritus in the intertidal area. Shellfish are among the conspicuous benefactors of the productive intertidal flats in the HMA. In addition, intertidal flats enhance shellfish habitat by acting as a sink to absorb toxic material and other pollutants.

Shellfishing is traditionally a significant recreational and commercial activity throughout the HMA; much attention has been given to the Town's shellfish resources. Those resources consist of not only shellfish populations but also the habitat required for those populations to reproduce, survive, and flourish. Described in Chapter Two of this Plan document, the East Lyme Harbor Management Commission also functions as the Town's Shellfish Commission with powers and responsibilities for protecting and managing the Town's shellfish resources. The area of jurisdiction of the East Lyme Shellfish Commission includes all of the HMA with the exception of the Niantic River which, for shellfish management purposes, is within the jurisdiction of the bi-town Waterford-East Lyme Shellfish Commission.

Much of the lower Niantic River, Niantic Bay and the Pattagansett River estuary have historically supported significant shellfish populations, including oysters, hard- and soft-shell clams, and bay scallops. In fact, Pattagansett oysters and the bay scallops of the Niantic River have been considered among the most valuable shellfish resources found in the northeastern United States.

Shellfish grounds in and near the HMA include: 1) natural grounds delineated by the Superior Court of New London County to be left open to the general public; 2) "private" grounds granted



Map 1-5: Niantic Bay and Harbor Federal Navigation Channel

by the Town in the late 1800s and early 1900s to private individuals; and 3) state grounds within the jurisdiction of the Connecticut Department of Agriculture's Bureau of Aquaculture (DA/BA) where commercial shellfishing is in accordance with franchise rights (granted by the state prior to 1915) or lease arrangement with the state. Additional information on the location, quantity, and quality of East Lyme's shellfish resources is found in the *East Lyme Shellfish Management Plan* prepared by the East Lyme Shellfish Commission in 1990 and updated in 2005.

The waters and intertidal areas of the HMA have been classified for shellfishing purposes by the DA/BA. These classifications to protect the public health are called shellfish growing area classifications and are distinct from the water quality classifications noted below established by the DEEP. Shellfish growing area classifications currently applied in the HMA are: "Conditionally Approved," "Restricted-Relay," and "Prohibited."

Any discussion of the HMA's coastal resources must include consideration of water quality conditions. In recent years there have been a number of accomplishments with regard to understanding and improving water quality conditions in the HMA and Long Island Sound, including improvement of municipal wastewater collection and treatment systems along the Sound and establishment of water quality monitoring and educational efforts. Nevertheless, pollution and the risk of pollution still exist. Bacteria and other pollutants can affect the enjoyment of boating activities, the vitality of fish and wildlife, and the health of those who come in contact with the water. Simply stated, water pollution in the HMA would diminish the quality of life in East Lyme and should be of concern to everyone.

Water quality in the HMA is classified by the DEEP in accordance with state water quality criteria. The DEEP's classifications establish designated uses for surface waters and identify the criteria necessary to support those uses. If those criteria are not met, the water body is listed by the DEEP as "impaired." The entire HMA, including its tidal tributaries, is classified as SA—the state's highest classification applied to coastal and marine surface waters. Designated uses of class "SA" waters are "marine fish, shellfish and wildlife habitat, shellfish harvesting for direct human consumption, recreation, and all other legitimate uses including navigation." However, the DEEP has determined that certain impairments, including bacterial pollution that may be generated by poorly functioning septic systems and high concentrations of water birds and carried by storm-water runoff, currently keep the Niantic River, Niantic Bay, Pattagansett River, and Four Mile River in the HMA from supporting all of the designated uses of class SA waters, including most notably shellfish harvesting for direct human consumption.

East Lyme's coastal area has been subject historically to severe tidal flooding (most notably during hurricanes in the 1930s, '40s, and '50s, the December 1992 Nor'easter, and Tropical Storm Irene and "Superstorm" Sandy in 2011 and 2012, respectively). Shoreline flooding and erosion are also caused by more frequent spring and winter storms. As a result, the entire East Lyme shoreline is within the coastal flood hazard area identified on Flood Insurance Rate Maps and is subject to flooding and/or velocity waves during coastal storm events. For much of the shoreline area, the base flood elevation is approximately 8.0 feet above mean sea level ("A" zones), and the elevation of flood waters in areas subject to velocity waves ("V" zones) reaches 9.0 feet above mean sea level.

NIANTIC RIVER HARBOR MANAGEMENT SUB-AREA

In the Niantic River Harbor Management Sub-Area, the municipal boundary between the towns of East Lyme and Waterford generally follows the centerline of the river. The sub-area encompasses that portion of the river within the jurisdiction of East Lyme, north of the area known as the Bar at the mouth of the River, and extending upstream approximately three and one-half miles to and including Banning Cove north of Route 1. Also included is Smith Cove. (See Map 1-7.)

The Niantic River as it flows to Niantic Bay and Long Island Sound forms one of the largest estuarine embayments on the Connecticut coast. Oriented in a north-south direction, the embayment is about three and one-half miles long and almost three-quarters of a mile wide in its widest reach. Tidal flow in the river is restricted by the narrow channel at its mouth. Approximately 25 days on the average is required for full tidal flushing of the estuary. Notwithstanding the restricted circulation and long period of tidal exchange, the estuarine system remains relatively unspoiled. The lack of significant commercial or industrial development along its shores makes the Niantic River estuary somewhat of a rarity along the Connecticut coast.

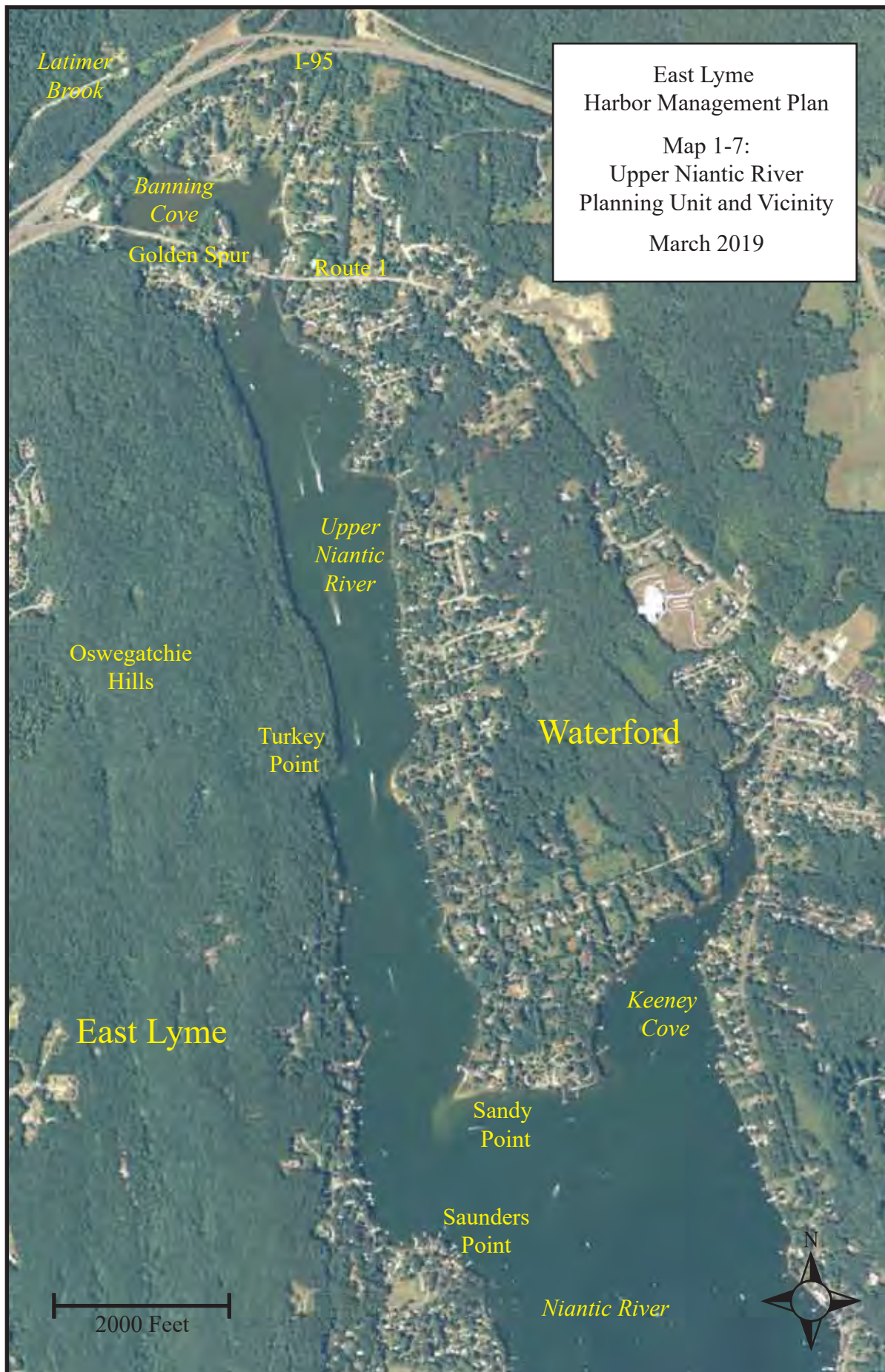
Shellfish, particularly scallops, but also hard clams (quahogs), soft shell clams, and oysters, are a principal coastal resource of the Niantic River estuary. Historically, the river has supported the most abundant populations of bay scallops in Connecticut. The bay scallop has long been a significant economic resource in the Niantic region, responsible for the Niantic River being known as the “Scallop Estuary.”

The combination of the river’s high salinity, its shallow basin contributing to high levels of phytoplankton, and its long tidal flushing time caused by the narrow river mouth have provided especially good scallop habitat. The areas of greatest scallop densities often shift from year to year. These shifts may be related to changing densities and locations of eelgrass beds and the resultant changes in the speed and direction of currents in the river. Some scientists have attributed recent declines in the scallop population to decline in eelgrass density in the river.

While tidal wetlands are not extensive in the estuary, significant expanses of intertidal flats are exposed at low tide.

The river supports a significant number of recreational and commercial vessels and a range of water-based recreational activities, including power boating, sailing, swimming, fishing, shellfishing, and water skiing. Many waterfront property owners have built docks and piers for boating access to the HMA, and boat moorings have been placed in a number of locations.

The eastern half of the river is subject to the jurisdiction of the Waterford Harbor Master, Harbor Management Commission, and Harbor Management Plan. Much of the Waterford shoreline is developed for residential use, with commercial uses, including water-dependent uses, located in the Mago Point area near the Route 156 and railroad bridges.



ORTHOPHOTOGRAPHY: 2010 National Agricultural Imagery Program (NAIP) provided by the Connecticut DEEP.

Within this harbor management sub-area, three smaller “planning units” are identified for the purpose of the *East Lyme Harbor Management Plan*: Upper Niantic River Planning Unit; Smith Cove Planning Unit; and Lower Niantic River Planning Unit.

UPPER NIAN TIC RIVER PLANNING UNIT

This planning unit, bounded on the west by the Oswegatchie Hills area and on the east by the East Lyme-Waterford town boundary in the Niantic River, extends from the northern limit of the federal navigation channel near Saunders Point northward to Golden Spur at the river’s head of navigation. (See Map 1-7.)

Saunders Point was developed as a summer residential colony. Original cottages have been winterized, new homes constructed, and, in 2018, most of the dwellings were occupied on a year-round basis. Water-access right-of-ways include the Town right-of-way open to the general public at Town Road and the restricted, privately owned right-of-way at Bishop’s Bay Road. The Oswegatchie Hills Club maintains a designated private swimming area in the river off Saunders Point.

The Oswegatchie Hills, a steep bedrock ridge north of Saunders Point encompassing about 700 acres is the dominant shoreline feature of this planning unit. The east slope of the ridge extends to the river bank and drains into the HMA. Providing opportunities for visual and physical access to the Harbor Management Area, Oswegatchie Hills for a number of years has been the focus of much attention by Town and state agencies and environmental groups. That attention is in response to development proposals that would affect this unique and largely unspoiled natural area. The steep ridge, shallow depth to bedrock, and extensive rock outcrops present significant development constraints. As a result, development historically has been limited to scattered residences between the northern end of Saunders Point and Turkey Point, along the upper limits of Quarry Dock Road (so-named for the former dock from which quarried granite was shipped from this area by barge throughout much of the 19th and early 20th centuries). Except for this development, the east slope of Oswegatchie Hill remains in a mostly natural condition, one of the few areas of undeveloped, coastal waterfront land in Connecticut.

In 1987, the Connecticut General Assembly designated the Niantic River Conservation Zone including primarily the Oswegatchie Hills; authorized the bi-town Niantic River Gateway Commission consisting of members from East Lyme and Waterford whose purpose is to preserve the land within the Conservation Zone; and established the state’s interest in preserving that land. Subsequently, through a partnership effort involving the Town of East Lyme, the East Lyme Land Conservation Trust, the non-profit Friends of the Oswegatchie Hills Nature Preserve, and the Connecticut Department of Energy and Environmental Protection, the Oswegatchie Hills Nature Preserve was established and now consists of over 400 acres. The Preserve includes a network of hiking trails on Town-owned land, parcels owned by the East Lyme Land Conservation Trust, and privately owned land protected from development by conservation easements. A conservation management plan prepared by the Town with assistance from the DEEP provides guidance for environmental conservation and passive recreational use of the area. In 2014, the State of Connecticut provided additional funds to expand the Oswegatchie Hills Nature Preserve.

In 2019, the remaining privately owned land in the Oswegatchie Hills currently not covered by conservation restrictions is subject to the Town's RU-120 rural residential zoning district. This district is applied to areas characterized by severe constraints on development due to natural factors such as steep slopes, shallow depth to bedrock, and high erosion potential.

The Niantic River north of Sandy Point attains depths up to 22 feet at Mean Low Water as shown on navigation charts. Near Route 1 and the area known as Golden Spur at the head of the river's navigability, the river is relatively shallow—subject to sedimentation and growth of aquatic vegetation made worse by the relatively poor tidal circulation. The point of land at Golden Spur constricts river flow and forms a narrow channel leading to Banning Cove north of the Boston Post Road (US 1). The cove is ringed with tidal wetlands; Latimer Brook enters the cove from the west. While suggestions for dredging projects to remove accumulated sediment from the cove predate the Harbor Management Plan, no such projects have been designed and implemented.

The Golden Spur area includes a small concentration of houses and a commercial area at I-95 Interchange 75 and was a longtime center of commercial activity in town. Small schooners and sloops were built at the Beckwith shipyard which operated here in the eighteenth century. In the early 1900s, the Golden Spur Amusement Park was a popular destination. Boats and canoes were available for rental and visiting attractions included J. W. Gorman's World Famous Diving Horses, an interesting piece of East Lyme's waterfront history.

Traditional boating activities involving higher speed activities such as water skiing as well as hand-paddled navigation with canoes and kayaks, combined with the presence of boat moorings and the private docks of waterfront homeowners, sometimes give rise to water-use conflicts reported to the Harbor Master and Harbor Management Commission.

SMITH COVE PLANNING UNIT

This planning unit includes Smith Cove, the navigable channel connecting the cove with the Niantic River, and the adjacent shoreline, including the south shoreline of Saunders Point and the north and west shoreline of the Pine Grove residential area. (See Map 1-8.) Like Saunders Point, the Pine Grove community was originally developed as a summer colony on small lots; most of the dwellings are now occupied on a year-round basis.

With dimensions of about 2,000 feet (measured in a north-south direction) and 1,000 feet (measured east to west), Smith Cove covers about 45 acres west of Pine Grove, north of Camp Niantic, and south of Saunders Point. A narrow, east-west oriented channel about 900 feet long and 300 feet wide connects the cove with the Niantic River. The controlling depth of this privately maintained channel is about five feet at Mean Low Water. In the shallow cove itself, depths are generally only about two feet at MLW as shown on navigation charts. A number of small docks, floats, piers, and mooring poles have been placed along the shores of the connecting channel by waterfront property owners.

Historically, a healthy shellfish community consisting of blue mussels, hard clams, and occasional scallops and oysters was found in the cove. That community has been diminished by siltation and bacterial pollution.

Water-access right-of-ways at High Street and Laurel Street provide opportunities for access to Smith Cove. The Laurel Street right-of-way is used by the Pine Grove-Niantic Association and includes a stone pier traditionally used for fishing and boat docking. This right-of-way is accessible from property of the Connecticut Spiritual Camp Meeting Association.

The Three Belles Marina operates at the northern end of Smith Cove, providing boat berthing, repair, and other services, including services for boats moored in the cove. These boating facilities and all of the residential areas surrounding the cove are within the 100 year floodplain. Owners of waterfront properties have access to the cove as do patrons of the Three Belles Marina; there are no public facilities for access to the cove, including access to boat mooring locations.

Tidal flushing of the cove is hindered by the narrow entrance channel, lack of significant stream flow into the cove, and the slow tidal exchange rate in the Niantic River. Since there are no significant tributaries to the cove, the major source of sediment appears to be stormwater runoff and transport of suspended sediment from the river. Siltation is ongoing and over many years has reduced available water depths to the extent that Town and state agencies have considered the feasibility of dredging the cove to enhance its environmental quality, including its quality as a shellfish resource, and increase its utility for boating activities, including boat mooring. Discussions of possible dredging projects predate the Harbor Management Plan, but no such projects have been designed and implemented.

LOWER NIAN TIC RIVER PLANNING UNIT

The Lower Niantic River Planning Unit (see Map 1-8) is defined by the water and shoreline area within the jurisdiction of the Town north of the Bar to the upstream limit of the Niantic Bay and Harbor federal navigation project opposite Saunders Point. Included is the major part of the federal channel in the Niantic River; nearshore areas adjacent to Saunders Point, Pine Grove, and Camp Niantic; and the Niantic Village marine commercial district north of the Bar.

In 2018, five marina facilities operated in the marine commercial district, including Port Niantic Marina; The Inn at Harbor Hill Marina; Boats, Inc.; Marker 7 Marina; and the Niantic Dockominiums. In addition, the Town Grand Street Boat Launching Ramp accommodating trailered boats is located at the foot of Grand Street in the marine commercial district. This is the most concentrated area of water-dependent businesses and boating activities in the East Lyme Harbor Management Area. The extension of multiple docks toward the federal channel, combined with the launching of trailered boats creates the potential for boating congestion and conflicts.

Maintenance of water dependent facilities, including marinas and shoreside support facilities is considered important to the long-term viability of the recreational boating industry in East Lyme. In the future there may be pressures for the redevelopment of these sites and the conversion of the marina facilities to other types of development.

Niantic Village, the Town's commercial center, surrounds the "T" intersection of Main Street (Rt. 156) and Pennsylvania Avenue (Rt. 161). The southern edge of the downtown area is separated from Niantic Bay by Amtrak's Northeast Corridor Rail Line. Running roughly parallel to Main Street, the rail line is carried on an embankment above Niantic Bay and crosses the Niantic River into the Town of Waterford at the end of the narrow barrier spit known as the Bar. (See below.)

The federal navigation channel in the lower Niantic River has a Congressionally authorized project depth of six feet at Mean Lower Low Water and a width of 100 feet; it bends sharply as it generally follows the river's natural channel.

Boats are moored in a number of locations in the Lower Niantic River. Care is given to managing those locations to ensure that mooring tackle and moored vessels do not adversely affect shellfish resource and navigation safety.

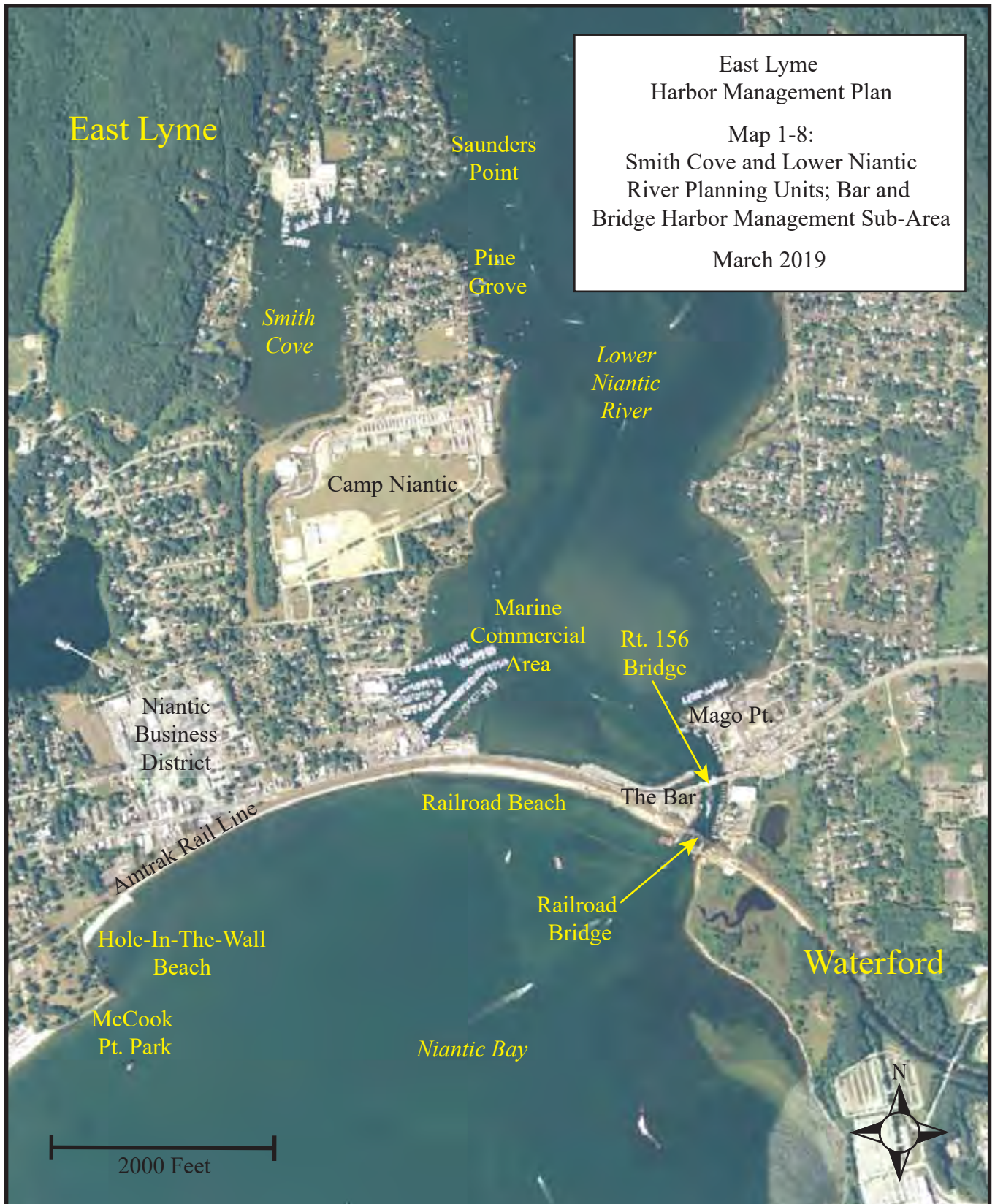
Several street-end right-of-ways provide opportunities for water access, including: Round Rock Road on Saunders Point; South Street in Pine Grove; Smith Street south of Camp Niantic; and the afore-mentioned Grand Street where the Town's boat launching facility and a small public picnic area have been established. The Pine Grove Niantic Association maintains designated swimming areas near the South Street right-of-way. The Pine Grove residential area, north of Camp Niantic, contains numerous small piers and docks.

The Camp Niantic shoreline, south of Pine Grove and north of the Marine Commercial District, is identified in the *East Lyme Plan of Conservation and Development* as a possible future opportunity area for public access to the HMA. Town planners have suggested that this opportunity might be pursued if the camp's current Connecticut Army National Guard (CTARNG) training purpose is changed, the current force protection level and operational security needs may be modified, or additional site uses are permitted by the State of Connecticut. In 2010, the CT DEEP conducted a state coastal consistency review of the camp's master plan. As a condition of approval, DEEP specified that if the current force protection level and operational security needs are adjusted to previous, less restrictive levels in the future, then public access would again be permitted on the site in accordance with the CTARNG Public Access Policy previously approved by DEEP.⁵

Based on current and anticipated future installation security requirements, however, the Connecticut Military Department has stated that future public access to the shoreline, landward of the Mean High Water line, is not likely to be permitted. Currently, Camp Niantic's military operations require that shoreline access, landward of the MHW line, be limited to authorized military personnel. In 2018, several DEEP-approved informational buoys placed in the HMA by the Military Department near the camp's shoreline notified boaters that they are close to a military facility. However, absent a formal designation of a restricted area for security purposes pursuant to state and federal laws, the public's rights of navigation, fishing, and other purposes in the Public Trust Area waterward of the MHW line along the Camp Niantic shoreline cannot be restricted.

In 2016, a Joint Land Use Study (JLUS) for Camp Niantic and the inland Stones Ranch Military Reservation was completed through a collaborative effort involving the CTARNG, Town and state agencies, and the general public. The JLUS developed a number of recommended strategies for addressing compatibility issues between the two military installations and the community. (See Chapter Two.)

⁵ See letter of April 14, 2016 from Marcy L. Balint, Sr. Coastal Planner, DEEP Office of Long Island Sound Programs, to Matt Davis, Matrix Design Group, and Gary Goeschel, East Lyme Town Planner, concerning CT DEEP OLISP Review of Draft JLUS Plan for Stones Ranch and Camp Rell [Niantic] Military Reservation.



ORTHOPHOTOGRAPHY: 2010 National Agricultural Imagery Program (NAIP) provided by the Connecticut DEEP.

Protection and enhancement of shellfish resources, particularly scallop resources, and expansion of opportunities for commercial and recreational shellfishing in the Lower Niantic River have long been priority goals established in the Harbor Management Plan and POCD.

THE BAR AND BRIDGE HARBOR MANAGEMENT SUB-AREA

This Harbor Management Sub-Area (see Map 1-8) includes the narrow spit of land—a coastal barrier—known as the “Bar” at the mouth of the Niantic River. Also included is the tidal channel between the Route 156 highway bridge and the Amtrak railroad bridge that connects the river with Niantic Bay.

The Bar extends eastward about a half-mile from Niantic Village, carrying the East Lyme approaches to the highway and railroad bridges. Four prominent Town water-access areas are found on the Bar: Cini Memorial Park; the Niantic River Boardwalk; the Town-owned Railroad Beach on Niantic Bay; and the Niantic Bay Boardwalk.

The Bar provides an elevated approach for the railroad to cross the Niantic River on an electrified bascule bridge. This bridge, along with a number of rail improvements, opened in 2013, replacing the original span built in 1907. The new bridge, 58 feet south of the original span, widened the under-bridge horizontal clearance for vessel traffic from 45 feet as provided under the old bridge to 100 feet, and raised the vertical under-bridge clearance from 11.5 feet to 16 feet when the bridge is closed. Also, as part of the bridge replacement project, Amtrak rebuilt the one-mile long Niantic Bay Boardwalk running west along the bay and rail line to Hole-in-the-Wall Beach; replenished the Railroad Beach along Niantic Bay with 76,000 cubic yards of sand; constructed a stone groin on the eastern edge of the beach to help stabilize the beach; transferred ownership of the beach to the Town; and increased the number of parking spaces at Cini Memorial Park to 127 spaces, thereby increasing public access to the Harbor Management Area. The refurbished beach and boardwalk re-opened in June of 2013 following completion of the new bridge.

The Route 156 bridge over the Niantic River is also moveable and of bascule design. It opened on May 4, 1991, replacing the previous low swing bridge that had been in service for 70 years. Under-bridge clearance when closed is 100 horizontal feet and 32 vertical feet. When the bridge opened, the old roadway approach to the previous bridge (just north of the new bridge) was abandoned by the Connecticut Department of Transportation and transferred to the Town. This provided the opportunity for the Town to develop a public park and water-access area on the Bar in accordance with plans and recommendations prepared by the Harbor Management Commission and the Town’s Economic Development Commission.⁶ The park is named in memory of former Town First Selectman David Cini who provided leadership for the Town’s original Harbor Management Commission and Harbor Management Plan and was the Board of Selectman’s first liaison to the HMC.

⁶ See “Coastal Public Access Study and Recommendations for Future Use and Development of the Bar at the Mouth of the Niantic River,” September 1991, prepared by the HMC.

Cini Memorial Park is managed and maintained as a focal point and central facility for public recreational activities on the East Lyme shoreline, providing a fishing pier; launching/landing area for “car-top” vessels such as canoes, dinghies, and kayaks; vehicle parking area; benches; a picnic area, pedestrian walkways; and interpretive signage depicting information on the natural and cultural history of the East Lyme coastal area. The park is linked to Niantic Village by the half-mile long Niantic River Boardwalk, and to the Railroad Beach and Niantic Bay Boardwalk via a pedestrian walkway under the railroad bridge.

The Railroad Beach provides opportunities for unsupervised swimming, fishing, shellfishing, walking, picnicking, and enjoyment of scenic views. The Niantic Bay Boardwalk, also called the Niantic Bay Overlook and Overlook Park, follows alongside the beach and rail line, providing a one-mile pedestrian link between the railroad bridge underpass and the Town’s Hole-in-the-Wall Beach. Opened in 2005, the boardwalk is enhanced by memorial benches and over 1,200 commemorative plaques donated in support of the facility and its maintenance. The boardwalk was refurbished as an element of Amtrak’s bridge replacement project, and in 2014 the Town initiated a project to reconstruct and increase the resilience of the western-most segment.

Just east of the Bar, the narrow, natural channel between the railroad and highway bridges constricts tidal flow significantly, thereby influencing environmental conditions throughout the Niantic River estuary. The constriction also causes strong currents affecting navigation and requiring diligence on the part of all mariners to maintain safe vessel operations. The Niantic Bay and Harbor federal navigation channel has an authorized width of 160 feet and depth of ten feet at Mean Lower Low Water in this waterway.

Between the bridges, commercial marine facilities are established on both the East Lyme and Waterford sides of the channel, including facilities supporting recreational boating and group and charter fishing businesses.

NIANTIC BAY HARBOR MANAGEMENT SUB-AREA

The Niantic Bay Harbor Management Sub-Area (see map 1-9), including the open waters of the Bay, is bounded on the north by the Bar at the mouth of the Niantic River, on the east by the north-south line marking the East Lyme-Waterford town boundary in the bay; on the south by an imaginary line connecting Millstone Point and Black Point; and on the west by Black Point. Included is the nearshore and shoreline area from just west of the Niantic Bay Boardwalk and extending to the west and south along Hole-in-the-Wall Beach, McCook Point, Crescent Beach, and Black Point.

For the purpose of the *East Lyme Harbor Management Plan*, four planning units are included: Hole-in-the-Wall Beach; McCook Point-Crescent Beach; Black Point; and Niantic Bay.

HOLE-IN-THE-WALL BEACH PLANNING UNIT

Hole-in-the-Wall Beach, operated by the East Lyme Recreation and Parks/Youth Services Department, is connected to the railroad beach by the western section of the Niantic Bay Boardwalk which runs alongside the railroad embankment. To the west, the McCook Point bluff rises about 50 feet. Access to the beach is via Baptist Lane and a tunnel through the railroad embankment.



ORTHOPHOTOGRAPHY: 2010 National Agricultural Imagery Program (NAIP) provided by the Connecticut DEEP.

Along with the adjacent McCook Point Park, Hole-in-the-Wall Beach is the Town's principal public beach recreation area. It provides opportunities for swimming, fishing, shellfishing, and non-motorized boating activities such as board sailing, kayaking, and canoeing. Public amenities include benches; pedestrian walkways; and interpretive signage.

Incorporated into the design and maintenance of the beach parking area is a demonstration project for environmental stewardship, called the Hole-in-the-Wall Beach Outdoor Stormwater Classroom. This project displays such best management practices for stormwater management as naturally vegetated rain gardens to filter stormwater, and pervious pavement to avoid direct runoff into the Harbor Management Area

MCCOOK POINT – CRESCENT BEACH PLANNING UNIT

This planning unit includes the nearshore waters and the Town-owned and private shorefront from McCook Point to the Niantic Bay Yacht Club on the northern part of the Black Point peninsula. Included is the beach community at Crescent Beach.

McCook Point is a steep, rocky bluff overlooking Niantic Bay. Access to the Town park operated by the East Lyme Recreation and Parks/Youth Services Department, is via McCook Place. A bathhouse and concession building are centrally located. Along with the adjacent Hole-in-the-Wall Beach, McCook Point Park is the Town's principal public beach recreation area. It provides opportunities for swimming, fishing, shellfishing, and picnicking.

To the southwest along the Black Point shoreline, the private Crescent Beach Association maintains facilities for swimming and boating for its members, and the Niantic Bay Yacht Club maintains berthing and docking facilities protected from Niantic Bay by a stone breakwater. Members of the yacht club also utilize individual private mooring locations in the Coast Guard-designated special anchorage area offshore of Crescent Beach and the yacht club.

The 840-foot long Crescent Beach Bluff Walkway, to the south and west of McCook Point Park, was damaged by Storm Sandy and rebuilt in 2016 with federal funding assistance. The walkway provides shore protection and a public walkway overlooking Niantic Bay.

BLACK POINT PLANNING UNIT

Included in this planning unit are the shoreline and nearshore areas along the eastern shore of Black Point south of the Niantic Bay Yacht Club, including the beach communities of Oak Grove Beach, Davis Beach, Attawan Beach, and Black Point Beach. The initial development of these communities, each with a distinctive character, occupied essentially all of the buildable sites on the Niantic Bay shore. Homes initially built for summer use have been winterized.

Black Point itself is located southwest of the Niantic Village, bounded on the east by Niantic Bay and on the west by the Pattagansett River estuary. Encompassing about 700 acres, the peninsula is composed of glacial till and has low bluffs and pocket beaches. On the east side of the point, the Attawan and Black Point Beach Associations own beachfront land and maintain swimming docks and buoys. Private, water access right-of-ways are found at Sea Breeze Avenue, Osprey Road and Old Black Point Road.

Individual-private moorings exposed to the open waters of Niantic Bay have been set along the eastern shore of Black Point by waterfront homeowners.

NIANTIC BAY PLANNING UNIT

The Niantic Bay Planning Unit is bounded by the Bar on the north and Black Point on the west. The southern limit is the northwesterly line running from Black Point to a line extending south from near White Rock. The easterly boundary extends to the Niantic-Waterford town boundary in the bay.

The entire Bay covers about two and one half square miles. Average depths are about 18 feet at Mean Low Water with a range of 15 feet to 40 feet as shown on navigation charts. The linear distance between Black Point and Millstone Point is about two and one-half miles. The Niantic Bay and Harbor federal navigation channel enters the Niantic River from the northeast corner of the Bay.

Niantic Bay and the nearshore waters of Long Island Sound support a diversity of marine life with recreational and commercial significance. Bluefish, striped bass and winter flounder are among the most sought-after species. Historically, lobster and blue crab were plentiful, and significant populations of hard clams ringed the entire bay. From the early to mid-1900s, trap fishing was commonplace.

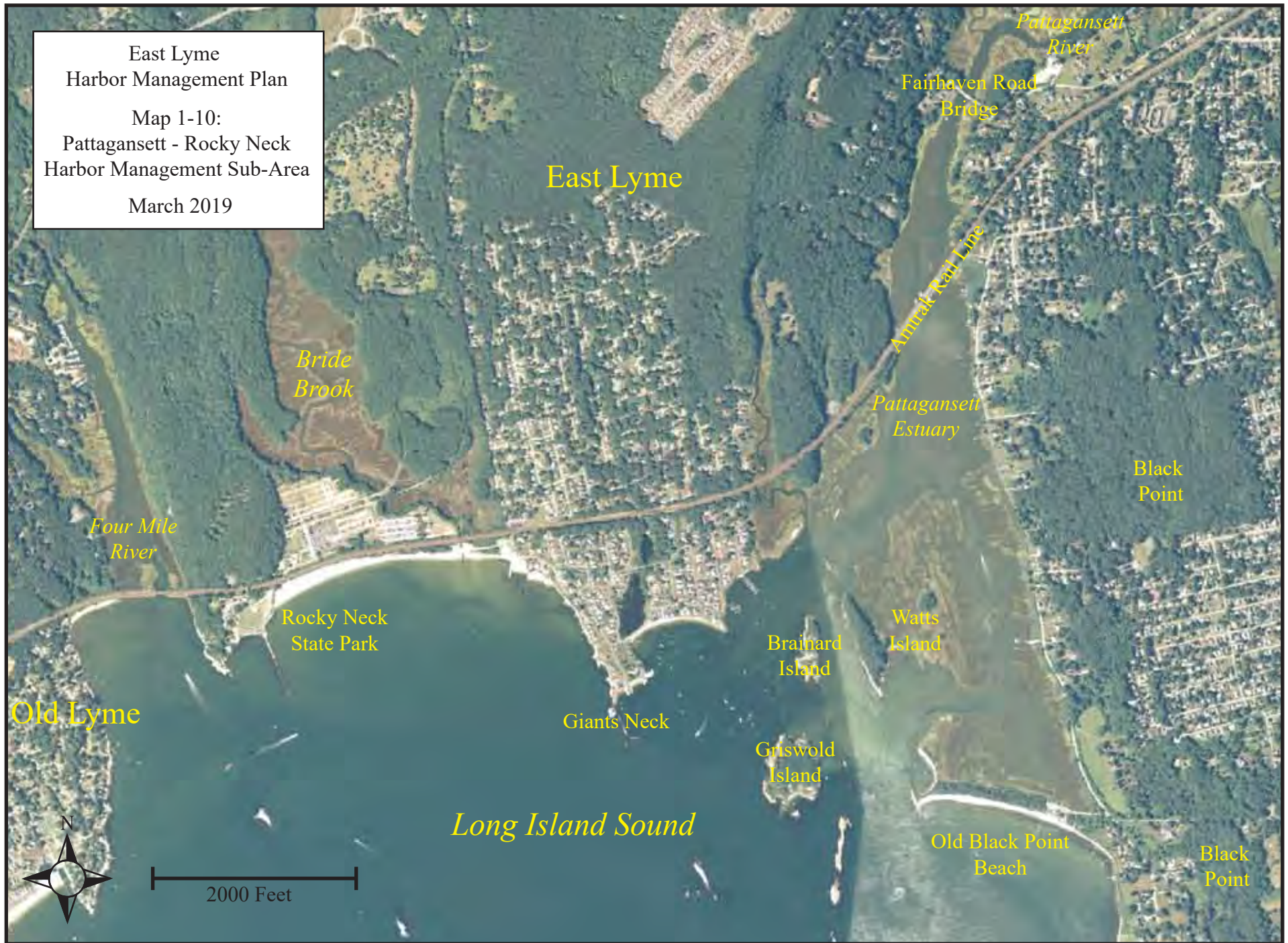
PATTAGANSETT - ROCKY NECK HARBOR MANAGEMENT SUB-AREA

This harbor management sub-area (see Map 1-10) includes the shoreline, nearshore, and open water areas west of Black Point, extending to the municipal boundary between East Lyme and Old Lyme, and including the Pattagansett River estuary. The sub-area is bounded on the south by the imaginary line connecting Black Point and Hatchett Point. Included is the eastern part of the tidal portion of the Four Mile River and the small tributary known as Bride Brook. Three planning units are identified for the purpose of the *East Lyme Harbor Management Plan*: Pattagansett River Estuary; Giants Neck; and Rocky Neck.

PATTAGANSETT RIVER ESTUARY PLANNING UNIT

The Pattagansett River Estuary separates Black Point from Giants Neck and reaches inland nearly to the western edge of downtown Niantic. The estuary is a largely natural system comprised of the river itself, extensive tidal marshes, and a barrier beach and islands at the river's mouth that shelter the estuary from Long Island Sound. The tidal portion of the estuary extends to just north of Route 156, while the river's watershed drains the entire central portion of the Town.

The tidal marshes total some 170 acres and are designated by the Connecticut Department of Energy and Environmental Protection as a natural area of state-wide significance due to their extent, productivity, and relatively undisturbed condition. At the upper end of the tidal reach, the river meanders through large expanses of marsh. As the river widens and straightens south of the Fairhaven Road crossing, more narrow wetlands fringe the river banks. Watt's Island occupies the



ORTHOPHOTOGRAPHY: 2010 National Agricultural Imagery Program (NAIP) provided by the Connecticut DEEP.

center of the river, providing, along with Huntley and Griswold Islands and Black Point Beach, the protection from Long Island Sound waves that has allowed the Pattagansett salt marshes to grow and thrive.

Salt marshes in the estuary provide significant habitat for many species of waterfowl and wading birds. Watt's Island is a prominent nesting site for the endangered osprey. The lower river and the nearshore waters of the Harbor Management Area also support a concentration of hard clams. During the late 19th and early 20th centuries, a large commercial oyster industry operated in the Pattagansett estuary providing hundreds of jobs. The Pattagansett oyster was much prized for its taste and hardness but eventually the industry could not compete with oysters from the Chesapeake Bay. Today, the oyster habitat in much of the river has been degraded by significant deposits of fine-grained sediment known as "black mayonnaise." Much of this sedimentation is felt to be caused by the railroad causeway which has constricted tidal flushing. Pilot projects for restoration of oyster habitat have been proposed by the East Lyme Shellfish Commission.

A substantial portion of the Pattagansett estuary, including tidal wetlands, Watt's Island, and Black Point Beach, is protected through ownership or easement by The Nature Conservancy and East Lyme Land Trust.

Fronting Long Island Sound at the mouth of the estuary and providing protection for the wetlands behind it is Black Point Beach, one of the few undisturbed barrier beaches in the state and reported to possess the highest sand dunes in Connecticut. Black Point Beach is owned by the Old Black Point Association and is protected by an easement agreement between the Association and The Nature Conservancy.

The land areas surrounding the lower part of the estuary (south of the railroad) are largely undeveloped because of the extensive tidal wetlands present. The Old Black Point Association maintains a designated private swimming area on the barrier beach at the mouth of the estuary. Tax assessment maps show a beach area on Brainard Island labeled "public beach" on which taxes are apparently not assessed.

Access to the upper part of the estuary is gained from Huntley Road north of the Fairhaven Road Bridge. The railroad embankment crosses the river and marshlands.

GIANTS NECK PLANNING UNIT

The Giants Neck Planning Unit is defined by the shoreline and nearshore areas of the Giants Neck residential area.

Giants Neck is a beach-oriented residential community of roughly 425 dwellings divided into two areas by the railroad line. These two communities are Giants Neck Beach along the waterfront and Giants Neck Heights on the western slope of the neck north of the railroad. Like other beach communities in East Lyme, the area is characterized by dense development on small lots and a number of seasonal homes, particularly in Giants Neck.

The Giants Neck land area south of the railroad right of way is about 45 acres; about 170 acres is north of the railroad. Giants Neck Beach Association maintains a private beach and swimming area, docking area, and mooring area within a Coast Guard-designated special anchorage area. The Giants Neck Heights Association maintains a private launching area on a small tributary just north of the railroad and a private beach area on the western side of Giants Neck in the vicinity of the Rocky Neck State Park eastern groin.

ROCKY NECK PLANNING UNIT

Rocky Neck State Park is a prominent feature of this Planning Unit which includes the Town's nearshore and shoreline areas west of Giants Neck as well as Bride's Brook and the East Lyme portion of the Four Mile River upstream to Route 156.

In addition to the State Park facilities, significant features of the planning unit include the Bride Brook Marsh, the Four Mile River, and North Brother Island. The state park is a major recreational resource developed on a half-mile long sandy beach and along a shoreline extensively engineered to stabilize and improve the beach. A substantial groin has been constructed at the west end of the beach and a smaller groin exists at the east end, separating the state property from the Giants Neck Heights Association beach. The park encompasses about 560 acres and includes a long, stony ridge of glacial till. Open year-round, the park contains facilities for camping, hiking, picnicking, and swimming. Peak use occurs during the summer months when the number of daily visitors can exceed 10,000. The railroad right-of-way passes through the park in the vicinity of the shorefront area. There are no facilities for docking or launching boats.

Bride Brook, so named for the wedding ceremony in the 1600s when the magistrate and married couple stood on opposite sides of the brook then considered to mark the boundary between the Saybrook and New London colonies, flows through the central portion of the state park. The brook's 150-acre tidal marsh is designated by the Connecticut DEEP as a natural area of statewide ecological significance, supporting a diverse population of wading shorebirds and waterfowl and providing a diversity of habitat types.

North Brother Island, a small rocky island about 2,000 feet south of Rocky Neck, has been identified by the DEEP as an important nesting site for the Common Tern and possible habitat for the rare Roseate Tern.

The Four Mile River in its tidal reach of slightly less than one mile forms the boundary between East Lyme and Old Lyme. The river channel runs in a north-south direction, ranging in width from 50 to 200 feet. At the mouth of the river, the railroad crossing restricts tidal flow.

Additional wetlands, an eight-acre state-owned boat launching facility 1,000 feet upstream from the mouth of the river, and a commercial small boat marina are established on the Old Lyme shoreline of the Four Mile River. The marina and state launching area serve shallow draft power boats as the fixed railroad bridge and shallow depth restrict navigation. The river's East Lyme shoreline is largely unmodified.

2

The Institutional Framework for Harbor Management

There is constituted a seven-member Harbor Management Commission which shall have the powers and duties conferred on such commissions by Chapter 444a of the Connecticut General Statutes, Revision of 1958, as amended, and the Harbor Management Commission is designated as the East Lyme Shellfish Commission...

Article II, Sec. 8 of the East Lyme
Harbor Management Ordinance

This chapter replaces the original chapter titled “Chapter Two: Existing Authorities and Responsibilities for Harbor Management” included in the *East Lyme Harbor Management Plan* adopted by the Board of Selectmen in 1994.



TOWN OF EAST LYME
HARBOR MANAGEMENT PLAN
MARCH 2019

THE INSTITUTIONAL FRAMEWORK FOR HARBOR MANAGEMENT¹

This chapter describes the institutional framework for harbor management in East Lyme. A number of agencies at the local, state, and federal levels of government have authorities and responsibilities pertaining to harbor management, the East Lyme Harbor Management Area (HMA), and the *East Lyme Harbor Management Plan* (the Plan).. The Board of Selectmen, Harbor Management Commission (HMC), and Town land-use agencies, for example, have significant Town authorities and responsibilities.

On the state and federal levels, the Connecticut Department of Energy and Environmental Protection (DEEP), Connecticut Port Authority (CPA), U.S. Army Corps of Engineers (USACE), and U.S. Coast Guard are four agencies with significant harbor management-related authorities. The Connecticut Harbor Management Act (Sections 22a-113k through 22a-113t of the Connecticut General Statutes) is the principal state legislation affecting harbor management in East Lyme. Numerous other Town, state, and federal laws, regulations, and ordinances are also applicable, including the Town's Ordinance for the Use and Enjoyment of the East Lyme Harbor Management Area (Harbor Management Ordinance). A copy of the Harbor Management Act is included as Appendix B of this Plan document; the Harbor Management Ordinance is included as Appendix C. Agency responsibilities for Plan implementation are set forth in Chapter Seven.

In addition, the general public and waterfront property owners have significant water-related rights in the East Lyme HMA, and there are several regional and private organizations with harbor management interests. It is also recognized that actions originating in or involving Waterford, Old Lyme, and the other municipalities with jurisdictions in the watersheds draining into the HMA can affect the HMA.

TOWN OF EAST LYME

In addition to the Board of Selectmen and Harbor Management Commission, a number of Town agencies have authorities affecting the East Lyme Harbor Management Area, including the Planning Commission, Zoning Commission, Police Department, Department of Health, Parks and Recreation Commission and Department, Fire Departments, and other agencies.

The East Lyme Town Charter and the Ordinances, Resolutions and Special Laws of the Town establish the powers, duties, and regulations that guide the functions and operation of Town government, including the Town's harbor management functions. In addition to the Harbor Management Plan, Town plans and regulations affecting the HMA and waterfront include the *East Lyme Plan of Conservation and Development* (POCD) most recently updated in 2009; East Lyme Zoning Regulations, East Lyme Shellfish Management Plan, and the Town's Ordinance for the Use and Enjoyment of the East Lyme Harbor Management Area (Harbor Management Ordinance). Also

¹ Information in this chapter was originally included in the *East Lyme Harbor Management Plan* adopted by the Board of Selectmen in 1994. It has been updated for inclusion in the Plan re-published in 2019.

affecting the HMA is the Niantic River Watershed Protection Plan, prepared by the Connecticut Department of Energy and Environmental Protection in cooperation with the towns of East Lyme, Montville, Salem, and Waterford, with watershed-wide strategies for reducing nonpoint source pollution.

BOARD OF SELECTMEN

The Board of Selectmen is the executive and legislative agency of the Town; the First Selectman is the Town's chief executive and administrative officer. As such, the Board and First Selectman exercise a number of authorities affecting the East Lyme Harbor Management Area and implementation of the *East Lyme Harbor Management Plan*.

As the legislative body of the Town, the Board is responsible for enacting Town ordinances on any matter permitted by the Connecticut General Statutes and Town Charter, including ordinances for the preservation of the order, health, welfare, and safety of the Town and its inhabitants. In addition, the Board acts as the Town's Economic Development Commission. With the municipal authority provided by Sec. 22a-113k of the Connecticut General Statutes, the Board adopted the Town's Harbor Management Ordinance establishing the East Lyme Harbor Management Commission effective June 14, 1986. The Board appoints the members of the HMC; reviews and approves, along with the Board of Finance, the HMC's budget requests; and provides leadership and direction for the Town's harbor management initiatives. Traditionally, a Selectman has served as an ex-officio member of the HMC without vote.

In addition, in accordance with Sec. 22a-113k of the General Statutes, the Board is responsible for adoption of the Harbor Management Plan and any amendments to the Plan.

HARBOR MANAGEMENT COMMISSION

The need for active Town involvement and authority in matters pertaining to East Lyme's coastal waterways was recognized by the Board of Selectmen in 1986 when it adopted the Town's harbor Management Ordinance to establish the East Lyme Harbor Management Commission. The HMC was thereby authorized by ordinance to carry out all of the powers and duties granted to municipal harbor management commissions through the Connecticut Harbor Management Act of 1984 (Sections 22a-113k through 22a-113s of the Connecticut General Statutes).

The powers and duties of the HMC include preparing and implementing the East Lyme Harbor Management Plan to guide the most desirable use of East Lyme's navigable waters and intertidal areas for recreational, commercial, and other purposes. The Harbor Management Ordinance also establishes the jurisdiction of the HMC over the East Lyme Harbor Management Area as defined in the Ordinance and Plan. The Ordinance specifies that the HMC shall consist of seven members, all of whom are appointed by the Board of Selectmen. In addition, the State of Connecticut Harbor Master for East Lyme is a non-voting, ex-officio member of the HMC.

Among the HMC's other powers and duties set forth in the Harbor Management Ordinance is the authority to: 1) review and make recommendations, consistent with the Plan, on any proposal affecting the real property on, in, or contiguous to the area within the HMA that is received by any other Town agency; 2) establish rules and regulations to implement its responsibilities; and 3)

propose ordinances needed to implement the Plan; and 4) prepare and present to the Board of Selectmen and annual operating budget. In addition, the HMC may propose fees for adoption by the Board of Selectmen for mooring permits and other activities within the scope of the Plan; and consults with and coordinates its activities with other agencies of the Town.

Described below, the East Lyme Harbor Management Ordinance also designates the Harbor Management Commission as the Town's Shellfish Commission.

SHELLFISH COMMISSION

The East Lyme Harbor Management Ordinance designates the Harbor Management Commission as the East Lyme Shellfish Commission and authorizes the HMC to carry out all of the powers and duties of a municipal shellfish commission pursuant to Sec. 26-257a of the Connecticut General Statutes.

In its role as the Town's Shellfish Commission—a role that is distinct and separate from its role as the Town's Harbor Management Commission—the HMC shall “have charge of all the shellfisheries and shellfish grounds lying within the boundaries of the Town of East Lyme not granted to others and not under the jurisdiction of the Commissioner of Agriculture, including all rivers, inland waters, and flats adjacent to all beaches and waters within the limits and marine bounds of the town, with the exception of those areas which are under the jurisdiction of the Waterford-East Lyme Shellfish Commission.” In effect, the jurisdiction of the Town's shellfish management authorities includes all of the East Lyme Harbor Management Area with the exception of the Town's jurisdiction on the Niantic River. For shellfish management purposes, the entire tidally influenced portion of the Niantic River is within the jurisdiction of the Waterford - East Lyme Shellfish Commission.

Among its state-authorized shellfish management powers and duties, the HMC may designate, within its shellfish management jurisdiction, suitable places for planting or cultivating shellfish; issue licenses for the taking of shellfish; designate quantities of shellfish that may be taken and the methods of taking; and prepare and implement a Town plan for managing shellfish resources. The East Lyme Shellfish Management Plan was prepared with assistance from the Connecticut Sea Grant Marine Advisory Service.

PLANNING COMMISSION

Responsibilities of the East Lyme Planning Commission include preparing the Town's Plan of Conservation and Development (POCD); authorizing development in accordance with the Town's Subdivision Regulations; and reviewing proposed municipal improvements. The Planning Commission also reviews referrals from the Zoning Commission and comments on proposed zoning map changes, proposed revisions to the zoning regulations, and applications for special permits.

The Planning Commission has significant responsibilities for implementing East Lyme's Municipal Coastal Program (MCP) whereby the Town guides development in its coastal area through the POCD and Town Zoning Regulations. That guidance is intended to achieve beneficial use and conservation of coastal resources, consistent with the state's legislative goals and policies established in the Connecticut Coastal Management Act (CCMA). Development of the MCP included

preparation of a Coastal Area Development Plan subsequently incorporated into the POCD, and amendment of the Town's waterfront Zoning Regulations to protect coastal resources and encourage water-dependent uses.

There is a significant relationship between the POCD and East Lyme Harbor Management Plan as both plans address the beneficial use and conservation of coastal resources. While the POCD focuses on land-use and development and the Harbor Management Plan focuses on water-use, there is an important intersection of the two plans on the Town's shoreline. The two Town plans are implemented as complementary and consistent documents that together serve as the Town's principal guides for land and water use on, in, or contiguous to the HMA.

As required by the CCMA, the Planning Commission conducts Coastal Site Plan Reviews of proposed subdivisions and municipal projects within the Town's coastal area for consistency with the coastal policies established by the CCMA and POCD.

ZONING COMMISSION

The Zoning Commission's responsibilities include preparing and revising, as necessary, the Town's Zoning Regulations. As part of the Town's Municipal Coastal Program, the Commission also conducts Coastal Site Plan Reviews of development proposals and applications for special permits within the coastal boundary. The Town's Zoning Enforcement Officer reviews development proposals for conformance with the Zoning Regulations.

Sec. 14 of the Zoning Regulations establishes the Town's requirements for Coastal Site Plan Review and specifies that all buildings, uses, and structures that would be located fully or partially within the designated coastal boundary are subject to the coastal site plan review requirements set forth in the Connecticut Coastal Management Act. Several activities judged to pose only minor potential impacts on coastal resources are exempted from the process.

Proposals for shoreline flood and erosion control structures, including bulkheads, seawalls, groins, and breakwaters are subject to review and approval by the Zoning Commission as part of the Coastal Site Plan Review process. Pursuant to Sec. 22a-109(d) of the General Statutes, a copy of each coastal site plan submitted for any shoreline flood and erosion control structure must be referred to the Commissioner of Energy and Environmental Protection within fifteen days of its receipt by the Zoning Commission.

Among the Town's zoning districts and regulations affecting the East Lyme Harbor Management Area are the waterfront CM marine commercial district which encourages the development of new and the retention of existing water-dependent uses in those areas of the Town suitable for such development; the TM tidal marsh district intended to preserve tidal wetlands and applied to areas of high value as wildlife conservation and flood retention areas and generally unsuited to any form of building development; and the Town's RU-120 rural residential district applied to areas characterized by severe constraints on development due to natural factors such as steep slopes, shallow depth to bedrock and high erosion potential.

POLICE DEPARTMENT

The East Lyme Police Department, acting in coordination with the Resident State Trooper's Office, has significant harbor management responsibilities for law enforcement and public safety in the East Lyme Harbor Management Area and areas providing access to the HMA. Like other municipal police departments in Connecticut, the Department has state-delegated authority to enforce state boating laws and regulations that apply in the HMA and Long Island Sound. In addition to its law enforcement authorities, the Department's Marine Patrol Unit provides general assistance to boaters in the HMA; responds to emergency situations, including medical emergencies and search and rescue situations, in coordination with other emergency services agencies; and may conduct boating safety inspections for compliance with state boating safety requirements. The Department assists with coordination and monitoring at special water and waterfront events, and is available to assist the Harbor Master with maintaining safe and efficient operation of the HMA. Education of the boating public is also part of the Department's mission.

The Police Department assists other agencies with law enforcement authorities in the HMA, including the Waterford Police Department, Connecticut Department of Energy and Environmental Protection, and U.S. Coast Guard, as needed. As DEEP and the Coast Guard are not able to provide a law enforcement presence on a consistent basis in the HMA, the bulk of law enforcement responsibilities fall upon the two local police departments which share jurisdiction in the Niantic River.

PARKS AND RECREATION COMMISSION AND DEPARTMENT

The Parks and Recreation Commission is responsible for the control, development, management, operation, and maintenance of all Town parks, recreational areas, and facilities. Adjoining the East Lyme Harbor Management Area, these include Hole-in-the-Wall Beach, McCook's Point Park, Cini Memorial Park, the Railroad Beach, and the Niantic River and Bay boardwalks. Day to day operation of these areas providing public access to the HMA is overseen by the Town's Recreation and Parks/Youth Services Department. The Department also sponsors programs contributing to enjoyment of the HMA, including safe boating classes and outdoor education programs; administers the Commission's rules and regulations for use of the waterfront parks; and issues required resident and non-resident beach passes and parking permits.

OTHER TOWN AGENCIES

Other Town agencies have authorities and responsibilities affecting the East Lyme Harbor Management Area, including: the **Town Meeting**, which influences the Town's harbor management initiatives through its authority to approve the annual budget of the Town as presented by the Board of Selectmen, Board of Finance, and Board of Education, and including the capital and operating budget of the Harbor Management Commission; **Board of Finance**, responsible for preparing the annual operating budget for the Town; **Zoning Board of Appeals**, which considers applications for zoning variances and conducts coastal site plan reviews of applications for variances in the coastal area; and the **Water and Sewer Commission**, responsible for East Lyme's municipal water system and for the Town's wastewater collection system which transports sanitary sewage to the New London Wastewater Treatment Plant.

In addition, **the Department of Public Works** is responsible for design and maintenance of the Town's stormwater and wastewater collection systems, and for construction and maintenance of Town facilities and right-of-ways providing public access to the HMA; the **Niantic Fire Department** serves the area of the Town south of I-95 with career and volunteer personnel responsible for emergency response and fire prevention and preparedness, including response to boating incidents and oil and chemical spills in the HMA, assisted as necessary by the Flanders Fire Department whose service area is north of I-95; the **Fire Marshall** is responsible for reviewing the development plans of applicants seeking zoning/building approval and specifying necessary measures for fire protection which are especially significant with regard to boating facilities vulnerable to fire hazards due to the presence of volatile fuels, wooden and fiberglass hulls, and other combustible materials; the **Inland Wetland Agency** is responsible for regulating all activities that may affect the Town's freshwater wetlands and watercourses, including wetlands and watercourses draining to the HMA; and the **Conservation of Natural Resources Commission** has all of the advisory authority, powers, and duties of a municipal conservation commission concerning development, conservation, supervision, and regulation of natural resources in the Town, including water resources.

NEIGHBORING TOWNS

Actions originating in or involving other towns can affect the East Lyme Harbor Management Area. Among the number of harbor management issues of common interest to East Lyme and neighboring towns are issues concerning water quality, boating safety, emergency response, law enforcement, and public access to Long Island Sound and along the shoreline. As a result, and because many environmental and harbor management issues are not limited by municipal boundaries, there is a need for ongoing coordination of harbor management initiatives with the neighboring Town of Waterford to the east and Town of Old Lyme to the west. Waterford and East Lyme share a jurisdictional boundary in the Niantic River and Niantic Bay; East Lyme and Old Lyme share a boundary in the Four Mile River. Both Waterford and Old Lyme have prepared municipal harbor management plans for their harbor management jurisdictions which adjoin the East Lyme HMA. In addition, actions originating in the towns of Montville and Salem upstream in the Niantic River watershed may also affect the HMA.

REGIONAL ORGANIZATIONS

In 2019, several regional organizations have responsibilities affecting the East Lyme Harbor Management Area. These include the Southeastern Connecticut Council of Governments, Ledge Light Health District, Waterford – East Lyme Shellfish Commission, and Niantic River Gateway Commission.

SOUTHEASTERN CONNECTICUT COUNCIL OF GOVERNMENTS

The Southeastern Connecticut Council of Governments (SCCOG) is the regional planning agency for East Lyme and 19 other towns in the southeastern Connecticut region. SCCOG's main functions include preparing and maintaining a regional plan of development; reviewing and commenting on proposed zoning changes that may affect other municipalities; undertaking the federally mandated transportation planning process for the region; and providing technical assistance concerning land-use and transportation planning to its member municipalities;

LEDGE LIGHT HEALTH DISTRICT (LLHD)

The Ledge Light Health District (LLHD) serves as the local health department for East Lyme, Groton, Ledyard, New London and Waterford. Among its public health services, the LLHD tests water quality in the East Lyme HMA, is responsible for closing swimming beaches if water quality is impaired, and regulates all activities related to the construction or repair of any subsurface sewage disposal system.

WATERFORD – EAST LYME SHELLFISH COMMISSION

The Waterford – East Lyme Shellfish Commission (WELSCO) is responsible for the management of shellfish resources in the Niantic River, including the East Lyme section of the river within the jurisdiction of the East Lyme Harbor Management Commission. Authorized by Sec. 26-287 of the Connecticut General Statutes, WELSCO consists of four commissioners from each town appointed by their respective boards of selectmen. WELSCO may prohibit the taking of shellfish from certain portions of the river, designate the manner in which shellfish may be taken, adopt reasonable regulations, and fix license and permit fees.

NIANTIC RIVER GATEWAY COMMISSION

Authorized by Sec. 25-109e of the Connecticut General Statutes, the six-member Niantic River Gateway Commission is a joint East Lyme-Waterford commission established by town ordinances. The Commission's purpose is to preserve the land within the Niantic River Conservation Zone designated by the General Statutes adjoining the Niantic River and including the Oswegatchie Hill area adjoining the East Lyme HMA. Among its responsibilities, the Commission is authorized to acquire or convey land interests, including conservation easements, in the conservation zone, and to develop minimum standards to preserve the land within the zone.

STATE AGENCIES AND OFFICIALS

A number of state laws, regulations, and programs affect the East Lyme Harbor Management Area. The principal legislation of interest includes the Connecticut Harbor Management Act of 1984 (P.A. 84-287; Sections 22a-113k through 22a-113t of the Connecticut General Statutes) which enables municipalities to establish harbor management commissions and develop harbor management plans. (A copy of the Act is included as Appendix B of this Plan document.) The intent of the Harbor Management Act is, in important part, to increase the authority and control of local governments over matters pertaining to the use and condition of their harbors.

In accordance with Sec. 22a-113m of the General Statutes, any harbor management plan or plan amendments proposed by a municipality must be approved by the Connecticut commissioners of Environmental Protection and Transportation before the plan or any amendments to that plan may be adopted by the legislative body of the municipality.

Also of interest is the Connecticut Coastal Management Act of 1979 (Sections 22a-90 through 22a-112 of the General Statutes) which establishes policies for the use and conservation of coastal resources; establishes the mandatory municipal process of coastal site plan review; and authorizes

preparation of municipal coastal programs, such as East Lyme's program which is implemented through the *East Lyme Plan of Conservation and Development 2009* and zoning regulations.

In addition, Sections 25-109c through 25-109k of the General Statutes designate the Niantic River Conservation Zone, authorize the Niantic River Gateway Commission, and establish the state's interest in preserving the land within the conservation zone, including the Oswegatchie Hill adjoining the East Lyme HMA.

Pursuant to the Water Pollution Control Act, Connecticut Water Quality Standards (CT WQS) have been established by the Department of Energy and Environmental Protection and applied in the HMA and all of the state's water bodies. These standards establish goals (classifications) for the most desirable types of water uses (such as recreation and fish and wildlife habitat) that can be supported by each water body, along with criteria that must be met in order to achieve the goals.

Numerous other state laws and regulations affect the East Lyme HMA, including laws and regulations controlling the operation and speed of all vessels. Those laws and regulations are subject to change and/or renumbering. Persons affected by or otherwise interested in such laws and regulations, including the Regulations of Connecticut State Agencies concerning vessel speed and operation, should consult current statutes and regulations and may contact the appropriate agency for information on the status of current laws and regulations.

The most prominent state agencies with roles and responsibilities in the HMA are the Department of Energy and Environmental Protection, the Connecticut Port Authority and the Bureau of Aquaculture. Also, the East Lyme Harbor Master and Deputy Harbor Master are state officials appointed by the Governor and derive their authority from the Connecticut General Statutes.

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION LAND AND WATER RESOURCES DIVISION

The Department of Energy and Environmental Protection's Land and Water Resources Division (LWRD)²; has significant responsibilities for implementing the Connecticut Coastal Management Act of 1979 and the Connecticut Harbor Management Act of 1984. The LWRD provides municipalities with technical assistance for harbor management and reviews proposed municipal harbor management plans and harbor management plan amendments to determine their consistency with state statutes.

² Reorganization of DEEP in 2016 created the Land and Water Resources Division and eliminated DEEP's Office of Long Island Sound Programs. The LWRD assumed the coastal planning and regulatory responsibilities held previously by the Office of Long Island Sound Programs.

Pursuant to the Tidal Wetlands Act and Structures and Dredging Act, the LWRD also regulates proposed development activities in the state's coastal waters and implements several regulatory programs concerning the following activities: placement of structures waterward of the Coastal Jurisdiction Line³; placement of structures in tidal wetlands; filling in tidal wetlands; filling in coastal, tidal, or navigable waters; dredging for navigation and disposal of dredged material; construction and maintenance of nonfederal channels; and placement of commercial moorings. The LWRD works closely with the U.S. Army Corps of Engineers in processing applications involving filling, dredging, or structures in coastal waters and wetlands. Tidal wetlands are defined in state statutes and mapped according to the presence of specific vegetation.

No person can conduct any regulated work in coastal waters and tidal wetlands without authorization from the LWRD. Such authorization may require a Permit or, for certain activities typically involving maintenance of previously permitted structures, dredging, or fill, a Certificate of Permission (COP) may be required. In addition, pursuant to Sec. 22a-361(d) of the General Statutes, DEEP has issued a General Permit for Minor Coastal Structures which authorizes certain defined structures such as small docks, moorings, navigational markers, and vessel-waste pump-out facilities anticipated to have only minor impacts on coastal structures provided the requirements of the General Permit are satisfied.⁴ In that case, an applicant submits a registration form instead of a Permit or COP application to the LWRD.

OTHER DEEP DIVISIONS

Other divisions of DEEP noted below also have authorities and responsibilities that affect the East Lyme Harbor Management Area.

Boating Division: The Boating Division offers boating safety instruction and certifies boaters on completion of basic boating and personal watercraft operation courses. In addition, it is responsible for implementing the state's permitting programs for special marine events and for placement of all regulatory, special purpose, and navigational markers, including markers to delineate restricted speed zones and swimming areas. Pursuant to Sec. 15-136 of the Connecticut General Statutes, the Boating Division is responsible for reviewing local ordinances regarding the operation of vessels to determine if those ordinances are consistent with state law. No local ordinance regarding the operation of vessels may become effective until approved by the Commissioner of Energy and Environmental Protection.

Environmental Conservation Police Division: This division, based nearby in Old Lyme, cooperates as necessary with local police departments, the State Police, and the Coast Guard, in law enforcement and search and rescue. It has responsibility for enforcing state boating laws, fish

³ The LWRD's regulatory jurisdiction for proposed work in coastal waters is defined by the "Coastal Jurisdiction Line" (CJL) defined in accordance with standards set forth by the DEEP and determined for the state's tidal waterbodies, including the waterbodies in the GHA. Prior to October 1, 2012, the DEEP's regulatory jurisdiction was marked by the high tide line.

⁴ See "General Permit for Minor Coastal Structures," DEEP-OLISP-GP-2015-01, Issuance Date: October 26, 2015, Expiration Date: October 26, 2035.

and wildlife laws, and other state laws and regulations. The division also enforces the state laws and regulations concerning recreational and commercial fishing.

Planning and Standards Division: The Planning and Standards Division adopts water quality standards and classifications for Connecticut waters (including the surface-waters of the East Lyme HMA), monitors and assesses the state's water quality, regulates municipal discharges, and assists municipalities in upgrading municipal sewerage facilities.

Bureau of Natural Resources: The Bureau of Natural Resources manages inland and marine fish populations for commercial and recreational fishing and is involved with restoration, management, regulation, and research concerning several important fish species and populations in Long Island Sound in the vicinity of the HMA.

Bureau of Materials Management and Compliance Assistance: This bureau enforces the state's water pollution control laws; regulates stormwater discharges from industrial and commercial activities; conducts pollution prevention, monitoring, and enforcement inspections; and provides emergency response for oil and chemical spill incidents and releases of hazardous materials and petroleum products.

State Parks Division: The State Parks Division within the Bureau of Outdoor Recreation has management responsibility for the state parks of Connecticut including Rocky Neck State Park adjoining the HMA and providing substantial opportunities for public access to the HMA.

CONNECTICUT PORT AUTHORITY

Effective July 1, 2015, the Connecticut General Assembly enacted a law establishing a quasi-public agency known as the Connecticut Port Authority. The law transferred, effective July 1, 2016, the maritime-related authorities and responsibilities formerly held by the Commissioner of Transportation and Department of Transportation to the CPA.

Among its responsibilities, the CPA is to: coordinate the development of Connecticut's ports and harbors; pursue federal and state funds for dredging and other infrastructure improvements to increase cargo movement through the ports and maintain navigability of all ports and harbors; work with the Department of Economic and Community Development and other state, local and private entities to maximize the economic potential of the ports and harbors; support and enhance the overall development of the state's maritime commerce and industries; coordinate the state's maritime policy activities; and serve as the Governor's principal maritime policy.

In addition, any harbor management plan or harbor management plan amendments proposed by a municipality must be submitted for approval to the CPA (approval by the Commissioner of Energy and Environmental Protection is also required) before they can be adopted by the municipality.

The CPA also assumed the previously held responsibility of the Connecticut Department of Transportation to act as the state's proponent or coordinator for dredging projects, including federal maintenance dredging projects undertaken by the USACE to maintain maritime commerce and the viability of water-dependent facilities and activities. In this regard, the CPA is responsible for

administration of the state grant in aid programs through which state-bonded funds may be provided to support federal maintenance dredging projects.

BUREAU OF AQUACULTURE

The Department of Agriculture's Bureau of Aquaculture has an important role for managing shellfish resources in the West Haven Harbor Management Area, particularly with respect to evaluating and classifying the waters of the HMA for shellfishing, licensing shellfishing, and generally working in coordination with the City and other agencies to protect and enhance shellfish resources.

To ensure compliance with the National Shellfish Sanitation Program of the U.S. Food and Drug Administration, the DA/BA tests water quality in the HMA to determine if the water is suitable for shellfish harvesting. Following evaluation of water quality, the DA/BA classifies coastal waters, shores, and tidal flats for the taking of shellfish. The basic classifications are "Approved," "Conditionally Approved," "Restricted," "Conditionally Restricted," and "Prohibited."

The DA/BA works in an advisory capacity to local shellfish commissions and DEEP. To identify potential impacts of proposed work in the state's marine and tidal waters on shellfish habitat and the shellfish industry, the DA/BA reviews permit applications submitted to the LWRD for dredging, filling, and placement of in-water structures, and may comment on those applications. Also, any shellfish management plan prepared by a municipality's shellfish commission must be submitted by that commission to the Commissioner of Agriculture for review and comment. In addition, the DA/BA has authority for granting or denying permits for aquaculture activities, including activities involving placement of racks, cages, or bags, as well as buoys marking such structures which must be placed in leased or designated shellfish areas.

HARBOR MASTER AND DEPUTY HARBOR MASTER

Both the East Lyme Harbor Master and Deputy Harbor Master are appointed by the Governor of Connecticut for three-year periods, serve at the pleasure of the Governor, and are responsible for the general care and supervision of the Town's navigable waterways, subject to the direction and control of the Commissioner of Energy and Environmental Protection. The Harbor Master and Deputy Harbor Master have a number of state-established authorities affecting the East Lyme HMA, including authority for control of all vessels moored or anchored in the HMA, removal of derelict and abandoned vessels and structures, and other actions conducted in the interest of maintaining safe navigation.

Under Sec. 15-1 of the Connecticut General Statutes, harbor masters are responsible for the general care and supervision of the harbors and navigable waterways over which they have jurisdiction and are responsible to the Commissioner of Energy and Environmental Protection for the safe and efficient operation of such harbors and waterways. Among their powers and duties, harbor masters are empowered to enforce the provisions of the General Statutes concerning removal of abandoned and derelict vessels, including Sec. 15-11a and Sec. 15-140c.

Under Sec. 15-154 of the General Statutes, harbor masters are also empowered to enforce state boating laws within their jurisdiction, except that harbor masters who are not certified law enforcement officers may not enforce the “boating under the influence” laws. Since no police training is provided to Connecticut harbor masters, CTDOT advises harbor masters who have not been certified as law enforcement officers to report violations of law to the local police department or other law enforcement authorities rather than become directly involved with arrests or confrontations with violators.

Sec. 15-1 of the General Statutes requires any harbor master to exercise his or her duties in a manner consistent with any harbor management plan for a harbor over which he or she has jurisdiction. This section also requires that the harbor master for any municipality with a state-approved and locally adopted harbor management plan shall be appointed by the Governor from a list of not less than three candidates provided by the municipality’s harbor management commission. Sec. 22a-113k of the General Statutes specifies that the harbor master or deputy harbor master for any municipality with a duly established harbor management commission shall be a nonvoting, ex-officio member of that commission.

OTHER STATE AND STATE-SUPPORTED AGENCIES

Other state agencies with harbor management-related responsibilities affecting the East Lyme HMA include the **Department of Motor Vehicles** which administers Connecticut’s boat registration law requiring all boats with motors, regardless of size, and all boats of at least 19 1/2 feet in length powered by sail alone to be registered and numbered before launching; the **Connecticut State Police** which enforces state boating laws and regulations and may conduct boating patrols and respond to emergencies in the HMA; and the **Department of Transportation** whose principal authorities affecting the HMA concern storm water drainage from I-95 and Routes 1 and 156, and responsibility for the Route 156 Bridge crossing the Niantic River.

The **Connecticut Military Department**, as part of its charge to maintain properly trained and equipped National Guard units for federal and state missions, is responsible for management and operation of Camp Niantic adjoining the East Lyme HMA and occupied by the Connecticut Army National Guard (CTARNG) for training purposes. In 2016, a Joint Land Use Study (JLUS) for Camp Niantic and the inland Stones Ranch Military Reservation was completed through a collaborative effort involving the CTARNG, Town and state agencies, and the general public.⁵ The JLUS identified compatibility issues concerning military operations and surrounding communities; developed a number of recommended strategies for addressing those issues; and recommends establishment of a JLUS Coordination Committee including representatives of Town, state, and federal agencies, to oversee implementation of the strategies. One strategy calls for incorporating camp security guidelines in the East Lyme Harbor Management Plan.

⁵ See “Stones Ranch Military Reservation and Camp Niantic Joint Land Use Study, Joint Land Use Study Report,” prepared by Matrix Design Group under contract with the Town of East Lyme, Connecticut, October 2016.

In addition, the **Connecticut Sea Grant College Program** of the University of Connecticut provides assistance to coastal communities and maritime industries to identify needs and fund research, outreach, and educational activities with special relevance to the Connecticut coast and Long Island Sound. In pursuing its mission to work towards achieving healthy coastal and marine ecosystems and consequent public benefits through research, outreach and education, the program provides technical assistance to municipalities for managing shellfish resources and assisted with development of the East Lyme Shellfish Management Plan.

FEDERAL AGENCIES

The principal federal agencies with responsibilities and authorities pertaining to the East Lyme Harbor Management Area are the U.S. Army Corps of Engineers, the U.S. Coast Guard, and the U.S. Environmental Protection Agency. Several other federal agencies also have roles and responsibilities.

U.S. ARMY, CORPS OF ENGINEERS

The East Lyme HMA is within the jurisdiction of the USACE's New England District. Prominent harbor management responsibilities of the USACE are related to: 1) the USACE's programs for regulating activities in wetlands and navigable water; and 2) the USACE's responsibilities for maintaining federal navigation projects such as the navigation channel in the Niantic River. Also, in accordance with the Connecticut Harbor Management Act, any harbor management plan or harbor management plan revision proposed by a municipality must be submitted to the USACE for review, comments, and recommendations prior to approval and adoption.

Regarding activities subject to the USACE's regulatory programs, the USACE may issue two types of permits—individual permits and general permits. Typically, an individual permit must be obtained from the USACE for most activities that involve: a) any filling in wetlands and navigable water; b) placement of structures in navigable water; and c) dredging and disposal of dredged material. A general permit is an authorization issued for categories of activities that are judged to be substantially similar in nature and to cause only “minimal individual and cumulative adverse environmental impacts.” The USACE is now implementing a Programmatic General Permit (PGP) developed jointly with the Department of Energy and Environmental Protection that applies throughout the State of Connecticut, including the East Lyme HMA. The PGP eliminates the need for an individual USACE permit for: a) work or structures of minimal impact in navigable water; and b) minimal impact discharges of dredged or fill material into waters of the United States. A state permit from DEEP is still needed, and projects with more than minimal impacts continue to require an individual permit from the USACE.

Docks, piers, pilings, bulkheads, and boat moorings are all structures in navigable water that require authorization from the USACE. While the USACE has regulatory authority over “individual-private” moorings placed for private use, Connecticut harbor masters have approval authority for these moorings and no application to the USACE is required.

In addition to its regulatory authorities, the USACE is also responsible for constructing and maintaining federal navigation projects, including the federal navigation channel in the Niantic River. The USACE is responsible for periodic maintenance dredging of the federal channel, as needed and pending the availability of dredging funds.

Since construction, operation, and maintenance of federal navigation projects are funded by federal tax dollars, the USACE has a policy that navigation projects must be “open to all on equal terms.”⁶ This policy is to ensure that all citizens have an equal opportunity to benefit from the project.

U.S. COAST GUARD

Coast Guard responsibilities related to harbor management include: placement and maintenance of aids to navigation; search and rescue; response to oil and hazardous materials spills; Homeland Security; enforcement of federal boating laws and regulations; control of water-based events; education for boating and navigation safety; and designation of “Special Anchorage Areas.” Noted in Chapter One, two a Special Anchorage Areas have been designated by the Coast Guard in the Harbor Management Area, one in Niantic Bay near Black Point and the other in the Pattagansett River Estuary off Giants Neck. Within Special Anchorage Areas (which are identified on navigation charts) vessels less than 65 feet in length are not required to display anchorage lights. Coast Guard Sector Long Island Sound headquartered in New Haven is directly responsible for the different Coast Guard functions in the Sound and along coastal Connecticut, including the East Lyme HMA. The Coast Guard facility nearest the HMA is Coast Guard Station New London.

U.S. ENVIRONMENTAL PROTECTION AGENCY

The U.S. Environmental Protection Agency (EPA) has several responsibilities that directly or indirectly affect the East Lyme HMA. These responsibilities are directed primarily toward protection and improvement of water quality. For example, the EPA is responsible for: establishing standards for discharge of municipal and industrial wastewater; providing grants for construction

⁶ The “open to all on equal terms” policy of the USACE states that:

Federal navigation projects must be managed in the general public interest and must be accessible and available to all on equal terms. Any number of approaches may be used to assure that all citizens desiring mooring or other access to the projects are treated impartially; it is not the Federal Government’s intention to prescribe specific procedures. A management system shall be considered acceptable provided that it:

- Makes no arbitrary distinction or requirement of any kind of allocating use of the project and ancillary facilities and services to the public except as may be consistent with the purpose for which the project was constructed.
- Does not impose arbitrary fees or arbitrary variations in fees among users. The cost of providing necessary management and ancillary facilities and services may be offset through equitable user fees based on actual costs incurred.

Information pertinent to harbor management, including but not limited to rules and regulations, lists of mooring holders, waiting lists, and fees schedules, shall be readily available to the public at all times.

of municipal sewerage systems; and administering the National Pollutant Discharge Elimination System (NPDES). In Connecticut, responsibilities for administration and enforcement of the NPDES, in accordance with the provisions of the federal Clean Water Act, have been turned over to the Connecticut Department of Energy and Environmental Protection.

Following action taken by the EPA and State of Connecticut in 2007 under Section 312 of the Clean Water Act, all of Connecticut's coastal waters, including the HMA, are now part of a state-designated no discharge area, making it illegal for boaters to discharge sewage from their vessels anywhere in the state's portion of Long Island Sound or its tributaries.

Under Section 404 of the Clean Water Act, the EPA has responsibility for reviewing and commenting on applications submitted to the USACE for dredging and filling in navigable waters. Section 404(c) enables the EPA to veto a USACE permit for dredging or filling if it determines that the development activity would have an unacceptable adverse effect on municipal water supplies, fisheries areas, wildlife, recreational areas, or other resources.

The EPA also provides technical and funding support for cooperative watershed management projects aimed at the reduction of NPS pollution. In cooperation with DEEP, the EPA has provided funds authorized through Section 319 of the Clean Water Act to support such watershed management projects throughout Connecticut.

The EPA is also responsible for designating any dredged material disposal sites that may be used in Long Island Sound. The purpose of the designation process is to ensure that dredged material disposal in the Sound will be in compliance with the requirements of the Federal Marine Protection, Research and Sanctuaries Act (also known as the Ocean Dumping Act). Pursuant to conditions included in the EPA's designation of existing dredged material disposal sites in the Sound, including the New London Disposal Site nearby and east of the HMA, the EPA worked with the USACE to complete in February 2016 a Dredged Material Management Plan for the Sound. That plan addresses use of open water dredged material disposal sites and opportunities for beneficial use of dredged material as alternatives to open water disposal.

OTHER FEDERAL AGENCIES

Other federal agencies also have roles and responsibilities affecting harbor management in East Lyme, including: the **U.S. Fish and Wildlife Service** and the **National Marine Fisheries Service** which provide comments to the USACE on the potential impacts that proposed development requiring USACE authorization may have on marine resources. The **Federal Emergency Management Agency** is responsible for conducting studies and publishing maps to determine flood vulnerability and for providing flood insurance to the communities (including East Lyme) that participate in the National Flood Insurance Program. Within the **National Oceanic and Atmospheric Administration**: the federal Coastal Zone Management Program which authorizes and provides funds to Connecticut's Coastal Area Management Program is administered; the National Weather Service issues weather forecasts; and the National Ocean Service conducts bathymetric surveys, prepares navigation charts, and records changes in sea level.

THE GENERAL PUBLIC

The general public has a number of significant rights in the East Lyme Harbor Management Area. Consistent with the Public Trust Doctrine,⁷ individuals and groups do not own underwater land or land subject to the ebb and flood of the tide. Under the Public Trust Doctrine, the title to tidewaters, navigable freshwaters, submerged lands beneath those waters, and the plant and animal life inhabiting those waters is held by the State of Connecticut in trust for the benefit of the general public.

The rights of the general public for use of navigable waters, including the waters of the East Lyme HMA, are generally classified under three major headings: 1) transportation and navigation; 2) recreational activities; and 3) commercial and consumer use of “sea products” (e.g., fishing).

Use of public waters for navigation is the central and essential public right and generally takes precedence over other rights. The public has the right to pass and re-pass on navigable waters without interference or obstruction. Where an obstruction does occur, it constitutes a public nuisance. The right of free navigation is subject to lawfully enacted restrictions (concerning the operation of vessels in the interest of public safety, for example) and includes the right to anchor.

To the extent that members of the public can gain access to navigable waters without trespassing on the adjoining uplands of riparian owners (see below) they may use navigable waters for recreational purposes, including boating, swimming, and related activities.

When discussing public rights for use of tidal and navigable waters, questions concerning the public’s right of access to these waters are particularly important. Where title to the land adjoining navigable waters is in private ownership, the property owner may deny access across his or her land to the Public Trust area. Discussed in the following section, the right of access to public waters is one of the most significant rights associated with the ownership of lands bordering navigable water; possession of this right distinguishes the shorefront property owner from members of the general public. In East Lyme, the general public has opportunity for access to the East Lyme HMA through Town-owned parks and other water access areas and right-of-ways.

⁷ The Public Trust Doctrine, the body of law pertaining to waters subject to the ebb and flood of the tide as well as navigable freshwaters, is based on the common law principle that certain lands and waters are so important to the public that private ownership or other impediments to these public uses should not be permitted.

SHOREFRONT PROPERTY OWNERS

Certain rights — referred to as riparian or littoral rights⁸ — are inherent in the ownership of land bordering navigable water. One of the most significant of these rights is the right of access to navigable water. The riparian right of access to a navigable water course is distinct from the right of the general public to use that water course.

The Connecticut courts have held that the owner of upland property adjacent to navigable water has “certain exclusive yet qualified rights and privileges” in the adjoining submerged land and navigable water, including the exclusive right to build docks and piers from the upland to reach deep water, often referred to as “wharfing out.” These structures, however, must not obstruct the paramount right of navigation and must be acceptable under applicable regulatory statutes, including the statutes that protect wetlands and other natural resources. In other words, the exercise of the riparian right must not interfere with the rights of the state and the general public and with the federal interest in navigation. To the extent that state and federal activity and regulation is necessary to secure the benefits of public waters for the general public, the individual riparian right is subservient and inferior.

Described above, both the U.S. Army Corps of Engineers and Connecticut Department of Energy and Environmental Protection’s Land and Water Resources Division regulate the construction of docks and piers and other activities waterward of the coastal jurisdiction line in tidal and navigable waters. The state and federal regulatory programs help to ensure that the exercise of riparian rights is consistent with the public’s interest in those waters.

A waterfront property owner cannot exclude the general public from lawful uses of the Public Trust area adjoining the owner’s property. Also, all riparian rights must be exercised with due regard for the rights of other riparian owners. The waterfront property owner cannot wharf out from the shore, for example, in a manner that encroaches on the riparian area of an abutting waterfront property owner.

Unlike the right to wharf out, a shorefront property owner does not have an exclusive right to a mooring in the waters adjacent to his or her property. Anyone else may moor a vessel in the adjacent waters subject to the permitting requirements of the USACE, Harbor Master, and the DEEP LWRD. Both the USACE and the DEEP LWRD have indicated that the riparian land owner may receive preference over other applicants for an individual-private mooring space in waters adjacent to his or her property.

⁸ With regard to water rights law, water rights arise when property either abuts or contains water. If the water in question is flowing (e.g., river or stream) the rights are said to be riparian. If the property is subject to the ebb and flood of the tide, or is located on a lakeshore, the rights are said to be littoral rights. Despite these distinctions, the terms “riparian” and “littoral” are commonly used interchangeably. The term littoral rights is herein used to describe the rights of the owners of property adjoining the East Lyme HMA.

PRIVATE GROUPS AND ORGANIZATIONS

Several private groups and organizations have significant interests with regard to the East Lyme Harbor Management Area and shoreline. These include private beach associations and several environmental organizations.

PRIVATE BEACH ASSOCIATIONS

East Lyme's private beach associations provide swimming and boating access to the water for the residents of these communities, and several of the associations are empowered by state law to exercise independent zoning controls. Swimming areas are designated and maintained by several associations, including the Giants Neck Beach Association, the Black Point Beach Association, the Old Black Point Association and others. In addition, the Old Black Point Association owns Black Point Beach and, with The Nature Conservancy, other significant habitat areas constituting the Pattagansett Marsh Preserve in the Pattagansett River estuary. Land owned by private beach associations extends to the Mean High Water line. To the extent that members of the public gain access to the Public Trust area waterward of the MHW line without trespassing on the adjoining, privately owned upland property, they may use the navigable waters of the HMA for lawful purposes in accordance with the Public Trust Doctrine. (See the previous section on the General Public.)

The governing boards of certain chartered beach communities are empowered by the Connecticut General Statutes to act as their own zoning commissions. In these communities, the Town's coastal area zoning regulations apply to the extent that they do not conflict with independent zoning controls that may be exercised by the beach associations. Black Point Beach, Crescent Beach, and Giants Neck Beach have adopted their own zoning regulations.

ENVIRONMENTAL ORGANIZATIONS

Environmental organizations with programs and interests affecting the East Lyme Harbor Management Area include: **The Nature Conservancy** which, along with the Old Black Point Association, owns and protects diverse coastal habitats constituting the Pattagansett Marsh Preserve; the **East Lyme Land Conservation Trust** which, in partnership with the Town of East Lyme, the Friends of the Oswegatchie Hills Nature Preserve, and the Connecticut Department of Energy and Environmental Protection, raised funds and otherwise contributed to establishment of the Oswegatchie Hills Nature Preserve and owns land in the Nature Preserve; the **Friends of the Oswegatchie Hills Nature Preserve** which pursues a stewardship mission involving public outreach, trail maintenance and improvement, and fund-raising for maintenance and expansion of the Nature Preserve, **Save the River-Save the Hills**, a nonprofit organization dedicated to preserving the health of the Niantic River estuary and the natural beauty of the Oswegatchie Hills and which pursues a number of water quality initiatives including operation of a vessel-waste pump-out boat in the HMA; and the **East Lyme Public Trust Foundation** supporting establishment and maintenance of the Niantic Bay Boardwalk and other projects to enhance public use and enjoyment of the HMA.

In addition, the **Niantic River Watershed Committee** a volunteer organization comprised of members from the four watershed towns of East Lyme, Montville, Salem, and Waterford, pursues its mission to improve water quality in the Niantic River and its tributaries and otherwise advance the recommendations of the Niantic River Watershed Protection Plan for reducing nonpoint sources of pollution.

3

Harbor Management Issues and Planning Considerations

To insure that the development, preservation, or use of the land and water resources of the coastal area proceeds in a manner consistent with the rights of private property owners and the capability of the land and water resources to support development, preservation, or use without significantly disrupting either the natural environment or sound economic growth.

from Sec. 22a-92 of the Connecticut General Statutes

This chapter replaces the original Plan chapter titled “Chapter Three: Harbor Management Problems and Issues” included in the *East Lyme Harbor Management Plan* adopted by the Board of Selectmen in 1994.



TOWN OF EAST LYME
HARBOR MANAGEMENT PLAN
MARCH 2019

HARBOR MANAGEMENT ISSUES AND PLANNING CONSIDERATIONS

This chapter provides an overview of harbor management-related issues and planning considerations in the East Lyme Harbor Management Area (HMA). Included are problems and issues of immediate concern as well as those that may be of more significance in the future. All are addressed through the Town's harbor management goals, strategies, policies, and other provisions established in chapters four through seven of the Harbor Management Plan (the Plan).

Key issues affecting harbor management have been grouped into seven categories related to: 1) Public Health, Safety, and Welfare; 2) Water-Use and Navigation; 3) Environmental Quality; 4) Recreational Boating; 5) Waterfront Land-Use and Development; 6) Water and Waterfront Access; and 7) Harbor Administration.

While the issues are categorized for the purpose of organizing discussion, many of the issues affecting the HMA do not exist as separate or isolated problems — in many instances there are strong interrelationships between the concerns that have been identified. The order in which the categories and issues are presented does not imply priority.

PUBLIC HEALTH, SAFETY AND WELFARE ISSUES AND CONSIDERATIONS

1. Capacity of the East Lyme Harbor Management Area for safe boating and other water uses: The capacity of the HMA may be discussed with respect to the capacity of the Niantic Bay and Harbor federal navigation channel (federal channel) and other surface water areas in the HMA to accommodate recreational and commercial vessels and water-dependent uses without the occurrence of adverse impacts on navigation and public safety. This capacity is not unlimited and difficult to predetermine. If the capacity is exceeded, public safety and enjoyment of the HMA would be adversely affected.

2. Vessel speed and wake: Speeding vessels (including personal watercraft) and excessive wakes in the HMA, especially near the shoreline and other vessels, can affect public safety and enjoyment of boating and other water activities; damage property, including, for example, private docks and moored vessels in the Niantic River; and erode coastal resources such as tidal wetlands in the Pattagansett estuary.

3. Emergency planning and response: Emergency situations may occur in the HMA and on the shoreline; they include, but are not limited to, situations involving vessels in distress, fuel spill emergencies, fires, and coastal flooding.

4. Water-use conflicts and congestion: Potential for conflicts exists among different types and sizes of vessels (including motorized and sail- and hand-powered vessels) using the navigation channels (including the federal channel and privately maintained Smith Cove channel), mooring areas, and water-dependent facilities in the HMA. Increased conflicts would be a sign that the HMA's capacity for safe boating and other water uses is being approached or exceeded.

5. Flood and erosion hazards: Flooding and shoreline erosion are natural, ongoing processes that will continue to affect water and waterfront use and development. Effective planning, preparedness, response, and recovery initiatives are needed to reduce or otherwise mitigate adverse impacts of coastal hazards on East Lyme residents, public facilities, businesses, private property, and coastal resources. Considerable portions of the East Lyme waterfront fall within coastal flood hazard areas identified on Flood Insurance Rate Maps. The hurricanes of September 1938 and October 1955, the June flood of 1982, Hurricane Gloria in 1985, Tropical Storm Irene in August 2011, and ‘Superstorm’ Sandy in October 2012, for example, caused significant damage; lesser coastal storms also cause flooding. While the Niantic River is protected from waves generated in Long Island Sound by the Bar, the Niantic Bay shoreline is particularly vulnerable to waves generated by south to southeasterly winds.
6. Risk of fuel and hazardous materials spills: Accidental spills of fuel and other materials from recreational and commercial vessels using the HMA and from water-dependent facilities handling and/or dispensing fuel would adversely affect the HMA. In addition, fuel and other hazardous materials that may be spilled on land may enter the HMA through storm drains and direct discharges, including drains on I-95, Route 1, and Route 156.
7. Obstructions and hazards to navigation: Undue obstructions or hazards to navigation in the HMA would adversely affect the beneficial use of the HMA, and include possible shoaling of the federal navigation channel, abandoned or derelict vessels (see below), and debris that may enter the HMA from waterfront properties.
8. Abandoned and derelict vessels and structures: Abandoned or derelict vessels or structures, including docks and moorings, can create an obstruction or hazard to navigation, detract from the scenic quality of the HMA, and cause environmental damages. Requirements for removal of abandoned vessels are specified in the General Statutes and require coordination among different agencies and officials, including the Harbor Master.
9. Fire prevention and preparedness: Fire prevention and preparedness are significant harbor management concerns due to the presence of volatile fuels, wooden and fiberglass hulls, and other combustible materials associated with marinas and other water-dependent uses in the HMA, including water-dependent uses in the Niantic River marine commercial area.
10. Homeland Security: The security of infrastructure on and near the shoreline, including the Route 156 and Railroad bridges crossing the HMA, is a significant consideration, along with the security of Camp Niantic.
11. Noise and nuisance impacts: Excessive noise, lighting, and other nuisance impacts associated with water and waterfront activities, including personal watercraft operation in the Niantic River and Pattagansett River estuary, can adversely affect other water uses, the quality of life in shorefront residential areas, and the enjoyment of persons who use Town parks and other water access facilities.

12. Town ordinances for public safety: A number of the above-noted public safety concerns in and near the HMA highlight the need for effective Town ordinances and other regulations to help maintain safe and efficient use of the HMA, including regulations for boating safety. The East Lyme Harbor Management Ordinance, for example, establishes restricted speed areas in the federal channel, Upper Niantic River, Pattagansett River estuary, and within 100 feet of shore or any dock, pier, float or anchored or moored vessel in any other part of the HMA.

WATER-USE AND NAVIGATION ISSUES AND CONSIDERATIONS

1. Maintaining the federal navigation channel: Adequate depth in the federal channel is needed to ensure continued viability of water-dependent uses in the Niantic River estuary and safe and efficient access to Long Island Sound for boating activities. The U.S. Army Corps of Engineers (USACE) is responsible for channel maintenance (dredging) which is dependent on demonstrated need and the availability of dredging funds. The current process to prepare and implement dredging plans can be lengthy and complex and the availability of dredging funds is not assured.

2. Nonfederal dredging: Maintenance dredging in the HMA outside of the federal channel, at commercial water-dependent facilities, private water-access locations, and the Town's public water-access facilities, is also necessary from time to time to maintain the continued viability of water-dependent uses and public access to the HMA and Long Island Sound. Dredging projects for environmental enhancement purposes have also been proposed in the HMA, including projects to remove sediment from Banning Cove and Smith Cove to increase water circulation and restore shellfish habitat.

3. Aids to navigation and markers: Appropriate federal and nonfederal aids to navigation are necessary for marking the federal navigation channel, Smith Cove channel, and other boating activity areas and conditions, thereby helping to maintain boating safety. State and federal permits are required for placement of all private aids to navigation. Any repositioning of federal aids to navigation would require permission from the U.S. Coast Guard.

4. Navigation fairways: Navigation fairways free of obstructions are needed to ensure safe passage of vessels to, from, through, and alongside navigation channels, mooring areas, anchorages, and berthing areas. For example, a navigation fairway is necessary to maintain unobstructed access from the Grand Street boat launch through the Niantic River marine commercial area to reach boating activity areas.

5. "Set-back" distances from channels, anchorages, and fairways: Floats, docks, piers, and other structures located too close to the federal channel, Smith Cove channel, designated fairways, and mooring areas can interfere with vessels using these areas. Unauthorized encroachment of boat slips into the federal channel was a significant issue, subsequently addressed, at the time of the original Harbor Management Plan.

6. Passenger vessels: Requirements for navigation, waterfront docking, and upland support facilities require attention and oversight to maintain safe and efficient operation of any passenger vessels that may operate in the HMA.

7. Boating safety and education: Continued boating education is a basic harbor management issue as not all boat operators will demonstrate adequate boat handling skills, nor full awareness of boating regulations, responsibilities, and local conditions, including conditions in the narrow channel between the Route 156 and railroad bridges—the most constricted navigation area in the HMA.
8. Unauthorized encroachments into navigable water: Structures or other work, including dredging, that would be placed or undertaken in the HMA without necessary Town, state, or federal approvals are illegal and can damage the environment and interfere with navigation.
9. Educational and scientific uses of the Harbor Management Area: Educational and scientific uses of the HMA are beneficial uses that require thoughtful planning and management to help ensure that they will be conducted in a safe and enjoyable manner and in coordination with other beneficial recreational and commercial uses.
10. Public rights in navigable waters: Recognition of the Public Trust Doctrine and the need to protect the public's rights in navigable water, including rights of navigation and fishing, under the doctrine is fundamental to decisions by the Harbor Management Commission, Planning and Zoning commissions, and other Town, state, and federal agencies affecting use and conservation of the HMA.
11. Water-access structures: Proposals by water-dependent facility operators, waterfront property owners, and the Town to construct docks, floats and piers sometimes raise planning, environmental, and water-access issues, including issues concerning the appropriate size and length of such structures so as not to interfere with public navigation and traditional shoreline views. These issues are addressed during the review of applications for state and federal authorizations for water-access structures.
12. Energy generation and transmission facilities: Proposals for energy generation and transmission facilities elsewhere in Long Island Sound, including but not limited to floating and submerged platforms, pipelines, and cables, have increased public awareness of the potential impacts of these facilities on navigation and coastal resources. Any such plans and proposals that may affect the HMA will require careful review.
13. Individual moorings. Individual boat moorings in the HMA used to secure a vessel may consist of either (1) a mooring buoy secured by bottom anchor; (2) a system of mooring lines secured to no more than two piles or stakes (known as mooring poles); or (3) a single floating dock, not more than 100 square feet, unattached to land. These structures are subject to Town, state, and federal regulatory requirements, including requirements implemented by the Harbor Master, and require careful administration to ensure that the space available is used safely and that mooring locations are managed in a fair and equitable manner. (See Recreational Boating Issues and Considerations.)

14. Commercial moorings: Commercial boat moorings defined in state and federal regulations, including moorings used by private clubs and marine commercial facilities, are subject to different regulatory requirements than individual moorings (although all require a permit from the Harbor Master) but also require careful administration pursuant to Town, state, and federal requirements, to ensure that the space available is used safely and that mooring locations are managed in a fair and equitable manner.

15. Bridge operation and maintenance: Historically, the Route 156 and Railroad bridges provided limited vertical clearance impeding the movement of some water traffic. Both bridges are moveable and can be opened to allow vessel passage according to Coast Guard-established rules, and both bridges have been replaced since the Harbor Management Plan was first adopted, now providing vertical clearances allowing a significant number of vessels to pass without bridge openings. Any future proposals for bridge maintenance require review and approval by Town, state, and federal agencies and must include measures to mitigate potential adverse impacts on the HMA, including impacts on environmental quality in the HMA

16. Recreational and commercial fishing: Commercial fishing, including shellfishing, is a traditional and beneficial use of the HMA encouraged and supported by state laws and programs, including the Connecticut Coastal Management Act. Commercial fishing activities may sometimes conflict with recreational boating activities and facilities, including placement of moorings. In addition, viable commercial fishing businesses require waterfront facilities to support their operations.

17. Harbor icing. Winter ice conditions in the HMA, especially in the enclosed Niantic River estuary, can damage in-water structures and affect vessel traffic, including the operation of vessels that may be responding to emergencies in the HMA.

18. Constricted navigation conditions near the mouth of the Niantic River. The most constricted reach of the federal channel is found in the area between the Route 156 and Railroad bridges at the mouth of the Niantic River. Difficulties in navigating this area can be compounded by strong tidal currents and competing uses.

Environmental Quality Issues and Considerations

1. Balance between goals for use and conservation of the HMA: A fundamental harbor management issue concerns the need to achieve and maintain an appropriate balance between goals for sustainable conservation of environmental quality in the HMA and goals for achieving beneficial water and waterfront use and development.

2. Environmental capacity of the Harbor Management Area: The capacity of the HMA's natural environment to accommodate water and waterfront uses without the occurrence of adverse impacts on environmental quality, including water quality, is a significant harbor management consideration. The environmental capacity of the HMA is not unlimited and there are a number of potential environmental impacts associated with in-water uses and waterfront development. Those impacts can be caused by: 1) the construction, maintenance, and operation of water-dependent

facilities; 2) navigation uses and activities that can generate noise, wake, pollution, and other impacts; and 3) nonpoint sources of pollution caused, for example, by increased storm water runoff into the HMA from developed areas.

3. Cumulative impacts on coastal resources: Cumulative impacts can result from individually minor but collectively significant actions that take place over a period of time, and can adversely affect coastal resources and environmental quality in the HMA. In other words, the seemingly insignificant impacts of individual dock construction, dredging operations, and discharges from individual storm drains and vessel holding tanks, could, over time, and when added together, have an important effect on environmental quality in the HMA.

4. Surface water quality: Bacteria and other water pollutants can affect the enjoyment of boating activities, the vitality of fish and wildlife, and the health of those who come in contact with the water. Any significant pollution in the HMA, including runoff pollution generated in the Niantic, Pattagansett, and other watersheds and point source pollution from storm drains and other sources, would diminish the Town's quality of life. Watershed-based planning initiatives, including implementation of the Niantic River Watershed Protection Plan, can serve to protect and improve surface water quality in the HMA.

5. Intertidal resources, including tidal wetlands and intertidal flats: Wetlands and intertidal flats in and near the HMA can be gradually diminished in quality and extent as nearby uses and development place greater stress on them. There may be opportunities for restoring the ecological values of some previously damaged intertidal areas. In the Niantic River estuary, the amount of intertidal resources historically lost through dredging or filling for development is significantly less than in some other areas along the Connecticut coast. The most extensive and valuable intertidal resources in the HMA are found in the Pattagansett River estuary.

6. Fish and wildlife resources, including shellfish resources: Adverse impacts on fish and wildlife resources, including shellfish resources, as a result of cumulative development impacts, water pollution, human disturbances, overfishing, and other conditions is a well-recognized harbor management concern. Historically, shellfish resources in the HMA have been especially valuable and important for the Town's economy and quality of life. Deterioration of this resource has occurred and is a significant harbor management concern. Shellfishing is restricted in some areas within the HMA where water quality does not meet state-established, shellfish growing area standards. In the Pattagansett River and estuary, which once supported one of the most valuable commercial shellfisheries in the state, significant siltation and deposition of organic matter have degraded the resource.

7. Coastal land resources, including beach and island resources: The Town's beach and island resources, including Town- and privately owned beaches along Niantic Bay, Black Point, and in the Pattagansett River estuary, and marsh islands in the estuary, along with their recreational and ecological values, are subject to erosion caused by natural forces and human use.

8. Waterfront scenic quality: Waterfront scenic quality, among the most important of Town resources, can be affected by the extent and character of waterfront use and development as well as any deterioration of waterfront structures.

9. Cultural resources—historic, educational, and scientific resources: As the Town manages its waterfront and harbor resources for use and enjoyment, there will be a need for continued recognition of water and waterfront cultural values and the significance of those values to the Town’s traditional character and quality of life.

10. Conservation of Oswegatchie Hill: The Oswegatchie Hill area rising above the Niantic River is one of the largest undeveloped parcels of privately owned land in the Connecticut coastal area. For a number of years, going back to the original Harbor Management Plan, the possibility of future development in this area has raised a number of land-use and environmental issues. Town planners, residents, and state agencies have, for example, expressed concerns about the effect of future development on water quality, traditional scenic quality, and watershed habitat. As a result, there has been much discussion and pursuit of initiatives to conserve land in the Oswegatchie Hill and to ensure that any future development is of a density and type consistent with the capacity of coastal land and water resources to accommodate that development.

11. Climate change impacts: Long-term climate change impacts, including impacts that may be caused by rising sea level, may adversely affect coastal resources, including tidal wetlands, beaches, and developed shorelines. Such impacts require consideration in planning, design, and cost determinations for infrastructure such as, but not limited to, municipal and private roads, water and sewer systems, and electric utilities.

12. Living shorelines: In 2012, the Connecticut General Assembly passed Public Act 12-101, An Act Concerning the Coastal Management Act and Shoreline Flood and Erosion Control Structures. This legislation revised the regulatory procedures applicable to shoreline protection, established a policy “to minimize the adverse impacts of erosion and sedimentation on coastal land uses through the promotion of nonstructural mitigation measures,” and specified that “Structural solutions are permissible when necessary and unavoidable for the protection of infrastructural facilities, cemetery or burial grounds, water-dependent uses, or commercial and residential structures and substantial appurtenances that are attached or integral thereto, constructed as of January 1, 1995, and where there is no feasible, less environmentally damaging alternative and where all reasonable mitigation measures and techniques have been provided to minimize adverse environmental impacts.” (See Sec. 22a-92(b)(2)(J) of the General Statutes.) In addition, the legislation amended the state’s coastal management policies to identify “living shoreline techniques utilizing a variety of structural and organic materials, such as tidal wetland plants, submerged aquatic vegetation, coir fiber logs, sand fill and stone to maintain or restore coastal resources and habitat” as a “feasible, less environmentally damaging alternative” to structural solutions. (See Sec. 22a-92(e) of the General Statutes and the Office of Long Island Sound Programs’¹ Fact Sheet for Shoreline Flood and Erosion Control Structures in Appendix G of the Harbor Management Plan.) The legislation specifies that the primary purpose of living shorelines projects is the “restoration or enhancement of tidal wetlands, beaches, dunes or intertidal flats,” and that a living shorelines project, for purposes of the Connecticut Coastal Management Act, is not considered a shoreline flood and erosion control structure. (See Sec. 22a-109(c) of the General Statutes and the Office of Long

¹ Reorganization of DEEP in 2016 created the Land and Water Resources Division and eliminated DEEP’s Office of Long Island Sound Programs. The LWRD assumed the coastal planning and regulatory responsibilities held previously by the Office of Long Island Sound Programs.

Island Sound Programs' Fact Sheet for Shoreline Flood and Erosion Control Structures in Appendix G of the Harbor Management Plan.)

RECREATIONAL BOATING ISSUES AND CONSIDERATIONS

1. Boating-facilities and services: Boating activities require waterfront facilities and services, including, but not limited to, facilities and services for berthing, repair, maintenance, and storage. The viability and operation of these water-dependent facilities, including the facilities in the Niantic Marine Commercial District, is affected by economic, regulatory, and other conditions.
2. Mooring and anchoring locations: Mooring locations in the HMA require effective oversight to ensure that available space is used safely; that mooring locations are managed in a fair and equitable manner; and that coastal resources are not adversely affected. Effective oversight through a Town permitting program requires ongoing coordination between the HMC and Harbor Master. (See Administration and Coordination Issues and Considerations.)
3. Mooring tackle specifications and inspections: Town mooring tackle specifications and inspection requirements are necessary and must be effectively applied to help guard against the potential for mooring tackle failure and the resulting risks to other vessels, shorefront property, and environmentally sensitive resources.
4. Public boating facilities: Continued operation, maintenance, and enhancement of the Town's boating facilities, including the Grand Street boat launch and the facilities at Cini Memorial Park, is a basic harbor management consideration. Long-range planning is required to maintain existing docks, bulkheads, pilings, and other structures and provide new facilities as may be necessary.
5. Facilities for visiting boaters: Visiting boaters can add to the vitality of the HMA and require docking and other boating support facilities and services.
6. Live-aboard vessels: A principal issue raised by the short- or long-term use of vessels as living quarters concerns the water pollution that may be caused by illegal waste discharges.
7. Personal watercraft operation: Issues concerning personal watercraft use, including any conflicts with other water and waterfront uses in the Upper Niantic River, Pattagansett estuary, and other locations, can be addressed through effective enforcement of boating regulations and through education of watercraft operators.
8. Hand-powered boating activities: Conflicts between these activities—including canoeing, kayaking, and rowing—and other water uses may arise from time to time, and require attention as necessary to maintain safe and beneficial use of the HMA.
9. Vessel waste pump-out facilities: Continued use of vessel waste pump-out facilities in the HMA serves to advance the Town's goals for improving surface water quality.

WATERFRONT LAND-USE AND DEVELOPMENT ISSUES AND CONSIDERATIONS

1. Land-use plans and initiatives: Waterfront land-use and development have a significant influence on the use and condition of the HMA and affect the quality of life in East Lyme. Conversely, use and condition of the HMA's navigable waters influence shoreline conditions.
2. Economic impacts associated with use and conservation of the Harbor Management Area: Economic considerations are inherent in many harbor management issues, and may be discussed in terms of the economic impacts (benefits) of water and waterfront uses; the costs of maintaining and enhancing public waterfront facilities; and other considerations.
3. Water-dependent and water-enhanced uses: Economic and regulatory conditions may influence the viability of water-dependent uses as the principal uses of waterfront sites in the future, thereby diminishing the availability of boating support facilities, including needed boat storage facilities, in the HMA.
4. Waterfront zoning: The application of waterfront zoning requirements for protecting traditional neighborhood character and protecting and promoting water-dependent and water-enhanced uses is a significant influence on the use and condition of the HMA.
5. Waterfront redevelopment: Redevelopment plans, including plans involving properties within the Niantic River marine commercial district, may have significant long-term impacts on the character of the waterfront and require careful planning and review.
6. Passenger boat operations: Any future proposals for passenger vessel operations and boat terminals will require careful planning and review to ensure that upland and well as in-water issues and requirements are adequately addressed.
7. Maintenance of waterfront areas and facilities: The environmental quality associated with the HMA can be adversely affected by deterioration and lack of maintenance of waterfront sites and facilities, including bulkheads and other shore protection structures.
8. Shoreline Flood and Erosion Control: Flooding and erosion of the HMA shoreline are natural, ongoing processes that will continue to affect shoreline use and development in the Town. Shore protection measures such as bulkheads and seawalls, while needed in certain locations to protect existing development, can also cause adverse impacts. As a result, the Connecticut Coastal Management Act identifies "living shoreline techniques utilizing a variety of structural and organic materials, such as tidal wetland plants, submerged aquatic vegetation, coir fiber logs, sand fill and stone to maintain or restore coastal resources and habitat" as a "feasible, less environmentally damaging alternative" to structural shore protection solutions. (See Sec. 22a-92(e) of the General Statutes.) The CCMA specifies that "Structural [flood and erosion control] solutions are permissible when necessary and unavoidable for the protection of infrastructural facilities, cemetery or burial grounds, water-dependent uses, or commercial and residential structures and substantial appurtenances that are attached or integral thereto, constructed as of January 1, 1995, and where there is no feasible, less environmentally damaging alternative and where all reasonable mitigation

measures and techniques have been provided to minimize adverse environmental impacts.” (See Sec. 22a-92(b)(2)(J) of the General Statutes and the Office of Long Island Sound Programs’ Fact Sheet for Shoreline Flood and Erosion Control Structures in Appendix G of the Harbor Management Plan.) The legislation also specifies that a living shorelines project, for purposes of the Connecticut Coastal Management Act, is not considered a shoreline flood and erosion control structure. (See Sec. 22a-109(c) of the General Statutes and the Office of Long Island Sound Programs’ Fact Sheet for Shoreline Flood and Erosion Control Structures in Appendix G of the Harbor Management Plan.)

9. Shoreline neighborhoods: Water and waterfront use and development must be planned and managed with consideration of its effect on the traditional character and beneficial quality of life in shorefront residential neighborhoods.

10. Littoral rights for access to the HMA: Recognition of the significant littoral rights of waterfront property owners for access to navigable water and of the need to balance that right with public rights of navigation in the HMA is a fundamental harbor management consideration.

11. Facilities for commercial fishermen: Independent commercial fishermen operating in the East Lyme area have expressed concerns over the lack of dock space and land area for storing and repairing equipment and for unloading catches. Currently, no dock space is set aside specifically for commercial fishermen.

12. Camp Niantic: The state-owned Camp Niantic property adjoining the Niantic River is occupied by the Connecticut Army National Guard (CTARNG) for training purposes. Town planners and the East Lyme Plan of Conservation and Development (POCD) have identified the camp’s shoreline as a possible opportunity area for public access to the HMA if the camp’s current training purpose is changed, the current force protection level and operational security needs may be modified, or additional site uses are permitted by the State of Connecticut. In 2010, the CT DEEP conducted a coastal management consistency review of the camp’s master plan. As a condition of approval, DEEP specified that if the current force protection level and operational security needs are adjusted to previous, less restrictive levels in the future, then public access would again be permitted on the site in accordance with the CTARNG Public Access Policy previously approved by DEEP.

Based on current and anticipated future installation security requirements, however, the Connecticut Military Department has stated that it does not consider that future public access to the shoreline is likely to be permitted. Absent a formal designation of a restricted area for security purposes pursuant to state and federal laws, the public’s rights of navigation, fishing, and other beneficial uses in the Public Trust Area waterward of the MHW line along the Camp Niantic shoreline cannot be restricted. In 2016, a Joint Land Use Study identified a number of strategies for addressing compatibility issues concerning military operations and the surrounding community.

WATER AND WATERFRONT ACCESS ISSUES AND CONSIDERATIONS

1. Public access to the Harbor Management Area: East Lyme's waterfront character and quality of life, along with the vitality of its navigable waters, depend, in large part, on continued provision of safe and enjoyable opportunities for both physical and visual access to the HMA and shoreline, including access by both Town residents and non-residents.
2. Access to the HMA from Town properties, including public parks and right-of-ways: The Town's waterfront parks and water-access facilities, including but not limited to Cini Memorial Park, Hole-in-the-Wall Beach, and McCook Point Park, require continued management attention to ensure that they are effectively maintained for beneficial public use and enjoyment, and that plans for establishment of new areas and facilities and enhancement of existing areas and facilities are achieved.
3. Balancing public and private rights for access to the HMA: The rights of the general public for navigation and access waterward of the Mean High Water line must be protected, and balanced with the littoral rights and other property rights of waterfront property owners.
4. Special waterfront events: Special waterfront events including, but not limited to, boating-related events, require substantial planning, management attention, and coordination to help ensure continued safe and enjoyable public experiences and attendant benefits.
5. Water-based tourism: Water-based tourism benefits in East Lyme, including economic benefits to local businesses in the downtown area and Niantic River marine commercial district, may be achieved through use of water-dependent facilities, including public water-access facilities. Achievement of such opportunities will require substantial planning, commitment, and investment.

HARBOR ADMINISTRATION ISSUES AND CONSIDERATIONS

1. Town authority for harbor management: A key harbor management consideration involves continued application of the Town's harbor management authority under the General Statutes and Town Code to maintain the most effective Town role for guiding safe and beneficial use and conservation of the GHA.
2. Harbor management funding: Key considerations affecting implementation of the Harbor Management Plan include the costs that may be associated with Plan implementation; how funds for Plan implementation, including funds for capital and operating expenses, are obtained and allocated; and how fees for mooring permits and other activities may be imposed most equitably.
3. Public support and awareness: Ongoing public interest and support is needed to advance the Town's harbor management goals and otherwise implement the Harbor Management Plan.

4. Coastal permitting and regulatory complexities: The process of applying for and obtaining state and federal authorizations for work affecting the HMA (including permits and certificates for dredging, docks, and bulkheads) may be lengthy and often frustrating for the applicant.
5. Harbor management consistency review: For the Harbor Management Plan to be effective, a procedure must be maintained whereby all governmental and private actions affecting the HMA are planned and implemented in a manner consistent with the Plan. That procedure must involve effective and coordinated local review of all significant proposals affecting the real property on, in, or contiguous to the HMA.
6. Changing conditions and circumstances affecting the HMA: Environmental and other conditions affecting the HMA are subject to ongoing changes, as are laws and regulations and the programs of the agencies and organizations with an interest in the HMA.
7. Town regulations for harbor management: Pursuant to the General Statutes and Town Code, the Town has significant authority to establish regulations affecting use and conservation of the HMA, including regulations by the Harbor Management Commission.
8. Coordination among Town agencies: Continued advancement of the Town's harbor management goals requires that all the Town agencies with relevant responsibilities carry out those responsibilities in the most coordinated and committed manner.
9. Coordination with the East Lyme Plan of Conservation and Development: Land-use and environmental conditions addressed in the POCD can exert a significant influence on the HMA. Continued coordination between the Town's land-use and harbor management authorities is necessary to achieve the most desirable management of the waterfront and HMA.
10. Coordination with state and federal agencies: Continued advancement of the Town's harbor management goals requires coordination among Town, state, and federal agencies and authorities, including proper consideration of Town recommendations in decisions regarding the issuance of state and federal permits for work in the HMA.
11. Coordination with other municipalities, including Waterford and Old Lyme: Actions originating in or involving other municipalities, including the municipalities with jurisdictions adjoining the HMA, can affect the HMA.
12. Coordination with the Harbor Master: While the East Lyme Harbor Master is a state official appointed by the Governor, the General Statutes require that the Harbor Master serve as an ex-officio member of the HMC without vote, and direct the Harbor Master to exercise his or her duties in a manner consistent with the Harbor Management Plan.
13. Mooring Administration. Administration of an effective Town program to manage safe and equitable use of boat mooring locations in the HMA requires effective implementation of comprehensive Town regulations and coordination between the HMC and Harbor Master.

14. Coordination with private groups: Private groups and nongovernmental organizations including neighborhood associations, environmental groups, and educational organizations, can have a significant role for implementing the Harbor Management Plan.

PART TWO:

THE HARBOR MANAGEMENT PLAN

- CHAPTER FOUR: TOWN GOALS AND STRATEGIES FOR
HARBOR MANAGEMENT
- CHAPTER FIVE: EAST LYME HARBOR MANAGEMENT POLICIES
- CHAPTER SIX: WATER-USE PLANS AND HARBOR
MANAGEMENT GUIDELINES
- CHAPTER SEVEN: ORGANIZATION, RESPONSIBILITIES, AND
PROCEDURES FOR PLAN IMPLEMENTATION



4

Town Goals and Strategies For Harbor Management

The [harbor management] plan shall identify existing and potential harbor problems, establish goals and make recommendations for the use, development, and preservation of the harbor. Such recommendations shall identify officials responsible for enforcement of the plan and propose ordinances to implement the plan.

from Sec. 22a-113n of the Connecticut General Statutes

This chapter includes the 2019 amendments to the Town of East Lyme's harbor management goals and objectives established in Chapter Four of the *East Lyme Harbor Management Plan* adopted by the Board of Selectmen in 1994.



TOWN OF EAST LYME
HARBOR MANAGEMENT PLAN
MARCH 2019

TOWN GOALS AND STRATEGIES FOR HARBOR MANAGEMENT

The East Lyme Harbor Management Plan (the Plan) establishes 12 broad goals for harbor management with accompanying strategies for implementation. These Town goals, numbered below for reference purposes and not to denote priority, establish the Town's Harbor Management Vision for safe and beneficial use and conservation of the East Lyme Harbor Management Area (HMA). The purpose of the goals is to provide a guiding framework for decisions and initiatives by the Harbor Management Commission (HMC) and other Town agencies with authorities and responsibilities affecting the East Lyme HMA. At the same time, those decisions and initiatives of the Town agencies serve to advance the Vision.

The goals and strategies of the Harbor Management Vision are directed toward achieving balance among a number of equally important public purposes, including: protection and enhancement of environmental quality and the quality of life associated with the HMA; provision of opportunities for water-dependent recreational activities and public access to the HMA; and maintenance of the health, safety, and welfare of those who use the HMA.

Implementation of the Harbor Management Vision is based in large part on the concept of perpetual stewardship whereby agencies, organizations, governmental officials, and Town residents with an interest or authority pertaining to the HMA recognize their responsibilities for care of the HMA in the public interest. That care—or stewardship—is for the purpose of ensuring that the natural, cultural, and economic values of the HMA are sustained for the future.

The HMC recognizes that achievement of the Town's Harbor Management Vision and the individual goals herein established must be pursued as an ongoing process that does not end with the success of any one initiative. That process will continue to evolve over time as conditions change in the HMA and understanding of natural conditions affecting the HMA increases.

More detailed harbor management policies based on the Harbor Management Vision are set forth in Chapter Five; plans and guidelines for specific areas within the overall HMA are in Chapter Six; and the organization, responsibilities, and procedures for Plan implementation are in Chapter Seven.

Harbor Management Goals

1. Recognition of Coastal Resources and Values
2. Active and Coordinated Harbor Management by the Town
3. Diversity of Water-Dependent Uses and Activities
 4. Boating and Navigation Facilities
5. Public Health, Safety, and Welfare
 6. Coastal Resiliency
7. Environmental Conservation and Enhancement
 8. Sustainable Economic Benefits
9. Public Access to the Harbor Management Area
10. Preservation and Enrichment of Community Character
 11. Public Interest, Support, and Participation
12. Effective Response to Changing Conditions

Goal 1: Recognition of Coastal Resources and Values

Recognize, as a significant basis for the Town's harbor management decisions, that the coastal resources in the East Lyme Harbor Management Area (HMA) have vital environmental, economic, and cultural values that contribute considerably to the quality of life, and that use and conservation of these resources should be properly managed in the public interest through Town planning and regulatory programs.

Implementation Strategies

- 1(a) Through the decisions and initiatives of the Harbor Management Commission, continue to emphasize the environmental stewardship responsibilities of the HMC.
- 1(b) Encourage and support public outreach and education initiatives to provide information to the public regarding the HMA and Harbor Management Plan. (See Goal 11).

Goal 2: Active and Coordinated Harbor Management by the Town of East Lyme

Actively manage use and conservation of the East Lyme Harbor Management Area in the public interest, for the benefit of all Town residents and the general public. Strengthen and maintain—according to the intent of the Connecticut Harbor Management Act (Sections 22a-113k through 22a-113t of the Connecticut General Statutes), East Lyme Harbor Management Plan (the Plan), and East Lyme Harbor Management Ordinance—a principal role for the Town of East Lyme in the planning, management, and regulation of activities affecting the HMA.

Implementation Strategies

- 2(a) Implement the Plan in accordance with authority provided by the Connecticut General Statutes and Harbor Management Ordinance.
- 2(b) Adopt and/or amend Town ordinances, rules, and regulations, as needed, for implementing the Plan; effectively enforce all ordinances, rules, and regulations affecting the HMA.
- 2(c) Achieve and maintain effective coordination for harbor management purposes with regional, state, and federal agencies with authorities and programs affecting the HMA.
- 2(d) Obtain and allocate funds dedicated for management and improvement of the HMA and waterfront for the benefit of the public, consistent with the Plan, Connecticut General Statutes, and Harbor Management Ordinance.
- 2(e) Promote public awareness of water and waterfront resources and support for harbor management initiatives.
- 2(f) Achieve and maintain consistency and coordination among the plans and programs of all Town agencies affecting the HMA and waterfront, including the Harbor Management Plan, East Lyme Shellfish Management Plan, East Lyme Plan of Conservation and Development, East Lyme Coastal Area Development Plan, and Niantic River Watershed Protection Plan.
- 2(g) Maintain a significant role for the State of Connecticut Harbor Master for East Lyme in the implementation of the Plan and the effective enforcement of boating laws and regulations, consistent with the Harbor Master's authority set forth in the Connecticut General Statutes and subject to directions from the Harbor Management Commission.

- 2(h) Recognize that land use and development may have a significant influence on the use and condition of the HMA; ensure consistency between the Town's land-use and harbor management policies; and manage land use affecting the HMA through the Town's land-use policies and regulations in coordination with implementation of the Plan.

Goal 3: Diversity of Water-Dependent Uses and Facilities

Maintain and support a diversity of viable water-dependent uses that individually and collectively enhance the quality of the East Lyme Harbor Management Area and shoreline, the local and regional economy, and the quality of life in the Town.

Implementation Strategies:

- 3(a) Encourage and support the development and continued operation of water dependent land uses (including boat service and public water-access facilities defined in Sec. 22a-93(16) of the Connecticut General Statutes.
- 3(b) Encourage and support the continued operation and growth of commercial fishing, including shellfishing, activities.
- 3(c) Encourage and support the development, enhancement, and expansion of public, private, and commercial boating facilities, consistent with public needs, in a safe and environmentally sound manner.
- 3(d) Support the continued operation and enhancement of non-boating water-dependent facilities and areas, including waterfront parks and beach areas and other facilities that provide opportunities for public access to the HMA. (See Goal 9.)

Goal 4: Boating and Navigation Facilities

Encourage and support the highest quality of boating and navigation facilities needed to maintain the Town's status as a center of recreational boating activity on Long Island Sound; manage boating and other water uses in the East Lyme Harbor Management Area to assure safe, orderly, and efficient use of the water and the waterfront.

Implementation Strategies:

- 4(a) Prevent unauthorized encroachments into designated navigation channels, anchorages, fairways, and all other areas of the HMA.

- 4(b) Encourage and support the continued and timely maintenance of the Niantic River federal navigation project (federal channel) consistent with current and anticipated need; encourage and support the placement and maintenance of aids to navigation as needed to maintain safe and efficient operation of the HMA.
- 4(c) Achieve optimum use of channel, anchorage, fairway, and other navigation areas through implementation of area-specific water-use plans and guidelines, including, but not limited to designation of specific areas for mooring and anchoring of vessels.
- 4(d) Encourage and support effective enforcement of applicable Town, state, and federal laws, regulations, and ordinances to maintain boating and navigation safety in the HMA.
- 4(e) Provide suitable public facilities in appropriate locations, including docks, floats, mooring locations, and public access facilities, to serve visiting boaters.

Goal 5: Public Health, Safety, and Welfare

Manage use and development of the East Lyme Harbor Management Area and shoreline to assure orderly and efficient use, maintain navigation safety, and provide for continued public health, safety, and welfare.

Implementation Strategies:

- 5(a) Encourage and support effective enforcement of applicable Town, state, and federal laws, regulations, and ordinances to maintain public safety, including boating safety, in the HMA and on the shoreline.
- 5(b) Avoid conflicts among vessels operating in the HMA, including conflicts between motorized and non-motorized vessels and conflicts between recreational and commercial vessels.
- 5(c) Provide facilities and services to support effective response to emergencies on, in, or contiguous to the HMA, including water access facilities to accommodate emergency-services vessels.
- 5(d) Maintain public safety at waterfront parks and beach areas, Town-owned street ends, and other locations providing opportunities for access to the HMA.
- 5(e) Manage use of the HMA and waterfront in a manner consistent with the capacity of the HMA and waterfront to support that use in a safe and environmentally sound manner.

- 5(f) Remove any derelict, abandoned, or deteriorated vessels and structures from the HMA and shoreline in a timely manner.

Goal 6: Coastal Resiliency

Reduce the vulnerability of the East Lyme Harbor Management Area and shoreline to natural hazards, including but not limited to, flooding, erosion, and wind hazards caused by hurricanes, coastal storms, rising sea level, and other weather and climate-related events and phenomena. Accelerate recovery and reduce the amount of resources, including public expenditures, needed to completely restore municipal services, public infrastructure, and community functions damaged by natural hazards.

Implementation Strategies:

- 6(a) Reduce adverse impacts of coastal hazards on residents, public facilities, businesses, private property, and coastal resources through effective planning, preparedness, response, and recovery initiatives.
- 6(b) Maintain an effective Town program of corrective and preventive measures for reducing flood damage, including effective floodplain zoning requirements to avoid increased density of vulnerable development in coastal high hazard areas.
- 6(c) Encourage “living shoreline” approaches where feasible to maintain or restore coastal resources and habitat while at the same time providing shoreline protection against flooding and erosion.
- 6(d) Encourage Low Impact Development approaches to land development and storm water management where feasible to reduce impervious surfaces and otherwise mitigate the impact of development on coastal resources and hydrology. (See Coastal Resources and Water Quality Policies.)

Goal 7: Environmental Conservation and Enhancement

Conserve and, where feasible, improve the quality of the natural coastal resources, including but not limited to, aesthetic coastal resources, in the East Lyme Harbor Management Area.

Implementation Strategies:

- 7(a) Achieve and maintain the highest reasonably attainable water quality in the HMA.
- 7(b) Properly manage, protect, and where feasible restore natural coastal resources, including water resources, tidal wetlands, shellfish beds, fisheries resources, intertidal flats, beaches and other resources; protect and enhance

the ecological functions and values associated with coastal resources, including functions and values related to fish and wildlife habitat, water quality, and flood mitigation.

- 7(c) Manage use and development of the HMA and shoreline in a manner consistent with the natural capacity of the HMA and shoreline to support use and development in a safe and environmentally sound manner; avoid new or expanded in-water and shoreline uses that exceed the natural capacity of the HMA and shoreline to support those uses.
- 7(d) Continue to identify and assess threats to coastal resources; continue to identify specific resource areas requiring protection from those threats; and continue to develop and apply measures to avoid or otherwise mitigate adverse impacts on coastal resources.

Goal 8: Sustainable Economic Benefits

Recognize and pursue opportunities for economic benefits associated with the East Lyme Harbor Management Area; achieve sustainable economic benefits in harmony with conservation and enhancement of the natural environment.

Implementation Strategies:

- 8(a) Support beneficial use and development of commercial waterfront areas, consistent with Town goals and objectives for encouraging water-dependent uses and conserving and enhancing the environmental quality associated with the HMA and waterfront.
- 8(b) Encourage and support water-based tourism activities and the associated economic, recreational, and other benefits of those activities in the Town without disturbing the existing quality of life and traditional character of the Town's waterfront and shorefront residential neighborhoods (see Goal 10).

Goal 9: Public Access to the Harbor Management Area

Provide safe and enjoyable opportunities for long-term public access to the East Lyme Harbor Management Area for active and passive recreational uses, consistent with the capacity of coastal resources to accommodate public access in an environmentally sound manner.

Implementation Strategies:

- 9(a) Maintain and where feasible improve the quality of existing water access areas, including publicly owned properties and water-access right-of-ways, and provide new areas, as such need may arise, in appropriate locations.

- 9(b) Ensure that opportunities for use of the HMA, including opportunities for vessel mooring, anchoring, and navigation, are available to all on a fair and equitable basis, consistent with the Public Trust Doctrine and all applicable laws, regulations, and ordinances.
- 9(c) Plan and maintain opportunities and facilities for public access to the HMA in a manner that is consistent with and does not unduly conflict with the littoral rights of waterfront property owners for reasonable access to navigable water.

Goal 10: Preservation of Neighborhood Character and Quality of Life

Protect and enhance the existing quality of life and traditional character of the shorefront residential neighborhoods.

Implementation Strategies:

- 10(a) Ensure that current and future water uses and activities affecting the real property on, in, or contiguous to the East Lyme Harbor Management Area do not adversely affect the character of shorefront neighborhoods.
- 10(b) Provide a forum for all public concerns, including those of shorefront residents, related to the quality and character of the HMA and shorefront neighborhoods.

Goal 11: Public Interest, Support, and Participation

Develop and maintain substantial public awareness of the significant environmental, economic, and cultural benefits provided by the East Lyme Harbor Management Area and maintain public support for implementing the East Lyme Harbor Management Plan.

Implementation Strategies:

- 11(a) Provide continuing opportunities for expression of public interests related to the HMA and Plan.
- 11(b) Encourage and support special programs and events to increase public awareness of HMA resources and benefits and support for implementation of the Plan.
- 11(c) Encourage and support educational and scientific uses of the HMA in suitable locations.

Goal 12: Effective Response to Changing Conditions

Adapt to changing conditions and circumstances influencing implementation of the East Lyme Harbor Management Plan while maintaining and enhancing Town capabilities to effectively guide the use and conservation of the East Lyme Harbor Management Area in the public interest.

Implementation Strategies:

- 12(a) Monitor conditions in the HMA and the status of the Plan.
- 12(b) Amend the Plan and Town ordinances for implementing the Plan, as necessary, in accordance with the procedure set forth in the Connecticut General Statutes and East Lyme Harbor Management Ordinance, including significant opportunities for public input.

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East Lyme Harbor Management Policies

To insure that the development, preservation, or use of the land and water resources of the coastal area proceeds in a manner consistent with the rights of private property owners and the capability of the land and water resources to support development, preservation, or use without significantly disrupting either the natural environment or sound economic growth.

from Sec. 22a-92 of the Connecticut General Statutes

This chapter includes the 2019 amendments to the Town of East Lyme's harbor management policies established in Chapter Four of the *East Lyme Harbor Management Plan* adopted by the Board of Selectmen in 1994.



TOWN OF EAST LYME
HARBOR MANAGEMENT PLAN
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TOWN POLICIES FOR HARBOR MANAGEMENT

This chapter sets forth the Town of East Lyme's harbor management policies for guiding the beneficial use and conservation of the East Lyme Harbor Management Area (HMA). These provisions of the *East Lyme Harbor Management Plan* (the Plan) complement, and are consistent with, the Town's conservation and development provisions set forth in the *East Lyme Plan of Conservation and Development* (POCD). The harbor management policies are also consistent with the provisions of the *East Lyme Shellfish Management Plan*.

Along with the goals and objectives in Chapter Four, the harbor management policies establish a guiding framework for decisions by the East Lyme Harbor Management Commission (HMC) and other Town agencies with programs or authorities that directly or indirectly affect the East Lyme HMA. In addition, the goals, objectives, and policies must be considered by state agencies making decisions concerning the HMA.

The policies are grouped into six categories: 1) boating and water-use policies; 2) public health, safety, and welfare policies; 3) waterfront use and development policies; 4) water access policies; 5) coastal resources policies; and 6) harbor administration policies.

BOATING AND WATER-USE POLICIES

1. Unauthorized Encroachments in Navigable Waters

- a. No structures or any other work (including but not limited to docks, piers, floats, pilings, bulkheads, mooring tackle, and dredging or filling of aquatic areas) shall be placed or take place waterward of the Coastal Jurisdiction Line (CJL) in the Harbor Management Area without necessary Town, state, or federal authorization. Any unauthorized structures or other work in the Federal Navigation Project or in any other areas waterward of the CJL should be considered unauthorized encroachments to be eliminated or otherwise corrected in accordance with Town, state, and federal laws and other requirements.
- b. The Harbor Management Commission and other Town agencies should support and cooperate with the Harbor Master, Connecticut Department of Energy and Environmental Protection (DEEP) and the U.S. Army Corps of Engineers (USACE) in the identification and elimination of any unauthorized encroachments in the HMA.
- c. Any unauthorized encroachments as defined in 1.a above should be eliminated by the offending party without delay. Town, state, and federal regulatory permitting agencies should take appropriate legal actions necessary to correct these unauthorized encroachments with consideration of recommendations by the HMC and should not issue "after-the-fact" authorizations that would bring these encroachments into compliance unless there are compelling, clearly demonstrated reasons to do so.

- d. When considering measures for correcting any unauthorized encroachment in the HMA, it should be recognized that the DEEP, pursuant to state requirements, must consider if the encroachment was in place prior to June 24, 1939 (the effective date of Connecticut's coastal regulatory program) or January 1, 1980 (the effective date of Connecticut's Coastal Management Program).- Substantial maintenance of encroachments in place prior to June 24, 1939 and continuously maintained and serviceable since that time, and minor alterations to encroachments in place prior to June 24, 1939, are eligible for state authorization through a DEEP Land and Water Resources Division (LWRD) Certificate of Permission (COP). Retention, substantial maintenance, and alteration of encroachments in place prior to January 1, 1995 may be eligible for authorization through an LWRD COP, as determined by the DEEP on a case-by-case basis with consideration of recommendations from the HMC.
- e. Civil penalties assessed by the DEEP for unauthorized work in the HMA subject to DEEP LWRD regulatory programs should be used to fund beneficial projects for environmental enhancement and other improvements for the public in the HMA to the maximum extent consistent with state laws and policies. Those laws and policies include, but are not limited to: the Connecticut Coastal Management Act (CCMA); statutory restrictions concerning civil penalties; and the DEEP's enforcement and Supplemental Environmental Project policies. The application of civil penalties for such purposes in the HMA should be determined by the DEEP on a case-by-case basis with consideration of recommendations from the HMC.

2. Navigation Fairways

- a. Specific water areas to be kept free of obstructions may be designated by the Harbor Management Commission where necessary to ensure safe passage of recreational and commercial vessels to, from and through navigation channels, mooring areas, anchorages, and berthing areas within the Harbor Management Area.
- b. Designated fairways should be of an appropriate width, consistent with the type of vessel use anticipated, to ensure ease and safety of navigation. When determining the appropriate width of any navigation fairway to be designated in the HMA, the HMC should take into consideration existing conditions including but not limited to: type of vessel use and amount of vessel traffic anticipated; traditional water uses; navigation rights and reasonable use expectations of the general public; normal wind, wave, and current conditions; location and extent of existing in-water structures; presence of coastal resources; statutory requirements concerning resource use and preservation; and the littoral rights of waterfront property owners.
- c. Placement of navigational buoys to mark the boundaries of designated navigation fairways requires appropriate state and federal approvals. Following receipt of those approvals, navigational buoys shall be placed at the direction of the Harbor Master as necessary to mark the boundaries of designated navigation fairways.

3. Marine Setback Standards

- a. All piers, docks, bulkheads, pilings, moorings tackle and other structures located waterward of the Coastal Jurisdiction Line should be set back from the boundaries of designated channels, mooring areas, anchorages, and fairways a sufficient distance to ensure that these structures, and any vessels docked or anchored at these structures, do not interfere with the safe and efficient passage of any vessel using the channels, mooring areas, anchorages, and fairways.
- b. Setback distances should be measured from the nearest boundary line of the nearest channel, mooring area, anchorage, or fairway to: 1) the nearest point of the particular structure; and 2) the nearest point to which a typical vessel docked or anchored at the structure might approach the boundary line.
- c. Appropriate setback distances for proposed structures and work waterward of the CJL will be determined on a case-by-case basis by the Harbor Management Commission based on a review of existing conditions, including but not limited to: type of vessel use and amount of vessel traffic anticipated; traditional water uses; navigation rights and reasonable use expectations of the general public; normal wind, wave, and current conditions; location and extent of existing in-water structures; presence of coastal resources; statutory requirements concerning resource use and preservation; and the littoral rights of waterfront property owners. When determining the distance that in-water structures should be set back from a designated channel, mooring area, anchorage, or fairway, consideration should be given to design guidelines established by the U.S. Army Corps of Engineers (and adopted as guidelines by the HMC. (See Appendix E of the Harbor Management Plan: “Guidelines for the Placement of Fixed and Floating Structures in Navigable Waters of the United States Regulated by the New England District, U.S. Army Corps of Engineers,” July 1996.) In the absence of compelling reasons to the contrary, however, all structures waterward of the CJL should be set back no less than 20 feet from the boundary line of the nearest channel, mooring area, anchorage, or fairway, and all vessels docked or anchored at such structures should be at least 10 feet removed from the boundary line of the nearest channel, mooring area, anchorage, or fairway.

4. Aids to Navigation

- a. Aids to navigation in the Harbor Management Area, including federal aids maintained by the U.S. Coast Guard as well as “private” (nonfederal) aids, and including buoys, beacons, and signs, should be adequate for marking navigation channels, mooring areas, anchorages, and fairways, restricted speed zones, and other areas and conditions affecting navigation safety. With approval from the Harbor Management Commission, U.S. Coast Guard, and Connecticut Department of Energy and Environmental Protection as necessary, “private” aids to navigation, supplemental to those placed by the U.S. Coast Guard, may be placed by the Harbor Master or the Police Department’s Marine Patrol Unit to mark fairways, mooring areas and anchorages designated in the East Lyme Harbor Management Plan as well as

any navigation hazards and restricted speed areas. Markers identifying restricted speed zones should be placed as needed.

- b. No “private” aids to navigation shall be placed in the HMA without approval from the HMC and necessary approvals from the U.S. Coast Guard and DEEP.
- c. It should be recognized that placement of aids to navigation by shorefront residents, marina operators, boaters and others without appropriate permits from the DEEP and U.S. Coast Guard may expose the owner of the aid to navigation to potential liability.
- d. The HMC, in coordination with the Harbor Master and the Police Department’s Marine Patrol Unit, may conduct a periodic review of the number, type, location, condition, and adequacy of aids to navigation within the HMA and inform the U.S. Coast Guard and DEEP of any identified deficiencies.

5. Federal Navigation Project

- a. A Federal Navigation Project consisting of a congressionally authorized navigation channel should be maintained in the Harbor Management Area to serve recreational and commercial vessels, provide safe navigation, and ensure the continued viability of water-dependent facilities. Future maintenance dredging of the federal channel should be carried out by the U.S. Army Corps of Engineers in the most timely manner necessary to ensure the continued viability of water-dependent facilities, including recreational boating facilities, and safe and efficient navigation.
- b. The Harbor Management Commission should work with the USACE and State of Connecticut agencies to establish specific procedures for determining future maintenance dredging needs of the federal channel and to initiate the maintenance dredging process, including the process for obtaining dredging funds, in the most timely manner.
- c. Coordination of federal and nonfederal maintenance dredging is encouraged and supported to reduce the economic costs and potential adverse environmental impacts of dredging in the HMA to the extent feasible.

6. Nonfederal Dredging

- a. Any nonfederal dredging that may be needed in the Harbor Management Area to maintain the viability of water-dependent uses, enhance coastal resources, or serve other beneficial public purposes, should be carefully planned and carried out in a timely manner that provides for the continued viability of water-dependent facilities, safe and efficient navigation, and avoidance of any significant, long-term adverse impacts on coastal resources. Maintenance dredging of nonfederal channels, mooring areas, marinas and other areas should be undertaken in compliance with

all applicable state and federal requirements, including, but not limited to, the requirements of the Connecticut Coastal Management Act, and in a manner that will minimize adverse impacts on coastal resources. (See Coastal Resources Policies.)

- b. Pursuant to Sec. 22a-113q of the Connecticut General Statutes, the Harbor Management Commission may request a General Permit from the USACE that would be applicable to private maintenance dredging consistent with the East Lyme Harbor Management Plan. (See Harbor Administration Policies.)
- c. Dredging for development of new uses and facilities in the HMA should be permitted only as necessary for the establishment of water-dependent uses.
- d. Dredging for new and expanded water-dependent uses and facilities should not result in significant adverse impacts on coastal resources. (See Coastal Resources Policies.)
- e. Disposal of dredged material, including any necessary de-watering of dredged material, from all nonfederal dredging projects should take place in a manner to avoid or minimize potential adverse environmental impacts. Upland disposal (as distinguished from open water disposal) of dredged material from privately maintained channels and docking facilities should be encouraged where feasible and where upland disposal can occur in an environmentally sound manner.

7. Siltation

- a. All appropriate efforts to avoid or reduce siltation and the resulting need for dredging in the Harbor Management Area should be encouraged and supported. Those efforts should include regular maintenance of storm drainage catch basins, construction of additional catch basins as necessary, control of runoff from construction sites, avoidance of the disposal of leaves, branches, or other debris in Town waters, reduction or elimination of all other human activities that introduce sediment into the Town's rivers and HMA, and other feasible measures that may be recommended in the Niantic River Watershed Protection Plan. Efforts to avoid or reduce runoff of sand and other materials into the HMA from roadways and bridges should be encouraged and supported.

8. Recreational Boating Facilities

- a. The Town should encourage and support the continued operation of commercial marinas and boatyard facilities and private boating and yacht clubs. Any future development activities that may affect existing marina and/or boatyard facilities should not result in any significant reduction of currently available boat slips and boat service facilities.

- b. Town planning and zoning requirements should protect and encourage water-dependent uses such as private boating and yacht clubs and commercial marina and boatyard facilities. (See Waterfront Land-Use and Development Policies.)
- c. The provision of additional commercial and private boat slips to meet current and future demands for recreational boating facilities should be encouraged where the construction of such slips will be consistent with all other harbor management goals, objectives, policies, and guidelines established in the Harbor Management Plan. The provision of slips for small boats (25 ft. and less in length) should be encouraged to help maintain a diversity of water-dependent uses and activities as well as opportunities for water access for all boat owners.
- d. The design and review of boating facility development proposals should take into consideration the capacity of the Harbor Management Area to accommodate increased water use while maintaining safe and efficient navigation, avoiding vessel congestion, and supporting other recreational and commercial uses in the HMA.
- e. The design and review of boating facility development proposals should take into consideration the potential cumulative impacts of the proposed development on coastal resources and the capacity of coastal resources to accommodate additional boating facilities without significant adverse impacts on navigation, public safety, coastal resources, and traditional public use of the HMA. When considering cumulative impacts of boating facility development, consideration should be given to the potential impacts of facility construction, use, and maintenance, including but not limited to noise, wake, and nonpoint source pollution impacts. (See Coastal Resources Policies.)
- f. The authority and policies of the Connecticut Coastal Management Act and East Lyme Plan of Conservation and Development should be applied to encourage and support the continued operation of commercial boat service facilities (including maintenance, repair and storage facilities) and to encourage the establishment of new boat service facilities in appropriate locations. (See Waterfront Use and Development Policies.)

9. **Dockominiums**

- a. The development of dockominiums, either as the principal use of a waterfront site or as a secondary use to another, non-water dependent site use, should incorporate public water-access facilities and not cause any significant conflicts with established public facilities, traditional public use of the HMA, and littoral rights of waterfront property owners for reasonable access to navigable water.

10. **Moorings**

- a. The location and placement of all mooring tackle in the Harbor Management Area should be carefully managed in a manner to provide for efficient and equitable distribution of individual-private and appropriate commercial mooring locations, including mooring locations for transient boaters and members of private boating clubs.
- b. All ~~such~~ moorings tackle shall be properly permitted, placed, and maintained in accordance with procedures established by the Harbor Management Commission in coordination with the Harbor Master. (See Harbor Administration Policies.)
- c. No moorings tackle shall be located within designated navigation fairways and the federal navigation channel; all moored vessels shall comply with appropriate setback requirements.
- d. Mooring tackle within mooring areas designated in the Harbor Management Plan should be placed in accordance with specific mooring plans designed to provide the safest and most efficient mooring of vessels and to achieve the most effective use of available mooring space.
- e. Individual-private and commercial moorings locations may be established outside of mooring areas designated in the Plan only where such placement is consistent with all other Plan provisions and duly approved by the Harbor Master in accordance with applicable rules and regulations.
- f. All moorings locations should be accessible through a suitable public or private (including private commercial) onshore access facility.
- g. The placement of any mooring tackle affecting a designated shellfish bed should be in accordance with all applicable rights of shellfish bed owners or lessees and duly established shellfish management provisions, including, where applicable, the provisions of the East Lyme Shellfish Management Plan. To avoid significant adverse impacts on shellfish resources and harvesting opportunities, appropriate alternatives to traditional mushroom anchors, including but not limited to helical embedment anchors, may be considered for mooring vessels in areas where shellfish are cultivated and harvested.
- h. To protect the safety of persons and property and protect environmentally sensitive resources in the HMA, all individual-private and commercial mooring tackle placed in the HMA should meet minimum mooring tackle guidelines established by the HMC and be regularly inspected by a duly approved inspector for soundness of condition and compliance with the minimum tackle guidelines according to a time schedule established by the HMC. Minimum mooring tackle guidelines should be reviewed and revised, as necessary, from time to time. All mooring permittees shall recognize that requirements for mooring tackle may vary in different locations in

the HMA and that some locations and conditions may require mooring tackle that exceeds the guidelines. Mooring permittees are advised to monitor forecasts of approaching storms and apply additional safety measures to secure their vessels as necessary, including removal of their vessels from mooring locations in the HMA.

- i. Each person mooring a vessel in the HMA should be responsible for any damage to his or her vessel or to any other vessel or property that may be caused by his or her vessel. Applicants for mooring permits may be required to provide appropriate documentation and other assurances during the permit process as necessary to protect the Town from undue risk and liability arising out of the use of any mooring location that may be assigned to the applicant.
- j. All facilities required for access to commercial moorings locations (including parking facilities and dinghy or launch access facilities) should be provided by the mooring permittee. All applicants for commercial mooring permits should demonstrate that they can provide adequate shoreside facilities to support commercial mooring use. Town-owned street ends and other water access right-of-ways should not be used for access to commercial moorings locations without the express approval of the HMC and Harbor Master.
- k. To ensure uniformity and avoid confusion among boaters, all buoys designating areas where vessels may be anchored or moored shall comply with Regulations of Connecticut State Agencies (RCSA) Sec. 15-121-A3.
- l. Seasonal restrictions for mooring in the HMA, including restrictions on mooring during periods when ice conditions may affect moored vessels, may be established by the HMC as necessary to protect coastal resources, including shellfish resources, and private property.

11. Mooring Pole Systems

- a. Mooring poles systems¹ must comply with all applicable rules, regulations, ordinances, and standards concerning the mooring of vessels in the Harbor Management Area, including the permit requirements of the Connecticut Department of Energy and Environmental Protection, and should be placed and used only by littoral property owners offshore of their properties or by those securing permission from the affected littoral property owner.

¹ For the purpose of the Harbor Management Plan, and consistent with the definition of “mooring” established in the General Permit for Minor Coastal Structures issued by the DEEP Office of Long Island Sound Programs October 26, 2015, a “mooring pole system” shall mean a system of mooring lines secured to no more than two piles or stakes.

- b. Mooring poles systems should be subject to specific standards for materials and placement established by the Harbor Management Commission to avoid adverse impacts on coastal resources and public use of the HMA, and should not be placed or used in a manner that poses a hazard or inconvenience to navigation.
- c. To avoid conflicts with adjoining property owners, mooring poles should be set back an appropriate distance from the littoral rights boundaries and should not be placed or used in a manner that interferes with the use of Town-owned street ends or privately owned water-access right-of-ways. An applicant for a permit to place a mooring pole system should notify the adjoining property owners that the mooring permit application has been submitted to the Harbor Master.
- d. Placement and use of mooring poles systems should not have any a significant adverse impact on coastal resources, water access opportunities, visual quality, and traditional water uses.
- e. In the absence of compelling reasons to the contrary, clearly demonstrated by the applicant to the satisfaction of the Harbor Management Commission and Harbor Master, no more than one mooring pole system consisting of no more than two poles and serving no more than two vessels should be permitted for any single waterfront property.

12. Anchoring of Vessels

- a. Anchoring of vessels in the Harbor Management Area shall not cause an obstruction or hazard to navigation nor any significant adverse impacts on environmental quality or other public uses or purposes within the HMA. All anchoring of vessels shall be subject to any order of the Harbor Master needed to maintain the safe and efficient operation of the HMA.
- b. Anchoring of vessels in the HMA shall be subject to any rules and regulations established by the Harbor Management Commission.

13. Public Boating Facilities

- a. Enhancement and expansion of existing public boating facilities and the establishment of new facilities in appropriate locations should be encouraged to provide dock space, boat slips, mooring locations, boat launching areas, and other facilities as well as enhanced opportunities for public access to the East Lyme Harbor Management Area by resident, nonresident, and transient boaters. Facilities provided should be consistent with demonstrated need and with the capacity of the HMA and upland areas to accommodate those facilities in a safe and environmentally sound manner. At such time as Town boating facilities may reach capacity, priority for use of those facilities may be provided to Town residents to the extent allowed by law.

- b. Establishment and maintenance of suitable public facilities, including slips, moorings, and public access facilities, should be encouraged and supported to serve transient boaters. Boating facilities to support and complement economic development efforts in the Village of Niantic should be encouraged and supported.
- c. Establishment and maintenance of small craft launching and landing areas at suitable locations should be encouraged and supported to serve small vessels such as canoes, dinghies, and kayaks that can be transported without trailers.
- d. Capital and operating budget resources needed to maintain boating facilities owned by the Town of East Lyme in a clean, attractive, safe, and enjoyable condition should be supported.

14. Live-Aboard Vessels

- a. The use of berthed, anchored, or moored vessels as permanent residences (as distinguished from short-term use of a vessel for living quarters as a secondary use to the vessel's primary recreational or commercial use) should be prohibited in the Harbor Management Area.
- b. Short term use of a berthed, anchored, or moored vessel for living quarters should be consistent with all Town, state, and federal regulations that address anchoring, lighting and other pertinent concerns, including the duration of use, and with the availability of land-based support facilities and utilities, including sewage disposal facilities.

15. Fishing and Shellfishing

- a. The Town should encourage and promote commercial fishing activities, including shellfishing activities, as well as the development and provision of suitable dock space and other facilities for independent commercial fishermen in the East Lyme Harbor Management Area.
- b. In developing an appropriate public information program designed to promote awareness of Harbor Management Plan provisions and requirements (see Harbor Administration Policies), the Harbor Management Commission may provide information with regard to the significance of commercial fishing and shellfishing activities in the East Lyme area.
- c. Continued efforts by the State Department of Energy and Environmental Protection and Bureau of Aquaculture to monitor commercial fisheries, including shellfisheries, in the East Lyme area and establish, with consideration of recommendations from the HMC, appropriate controls as necessary to ensure the continued viability of fisheries resources should be encouraged and supported.

- d. The placement of all moorings tackle in the HMA should be consistent with the rights of shellfish bed owners or lessees and the provisions of applicable shellfish management plans and regulations developed by the East Lyme Shellfish Commission and the Waterford-East Lyme Shellfish Commission.

16. Excursion Vessels

- a. Proposals for boat terminals on, in, or contiguous to the Harbor Management Area, including terminals for ferry boats and excursion boats and boat rental facilities, should be carefully designed and reviewed to avoid or minimize any significant adverse impacts on navigation and coastal resources and on upland areas near and adjoining the HMA, including shorefront residential areas.
- b. The operation of excursion boats providing opportunities for beneficial public access to the HMA and Long Island Sound should be encouraged and supported, consistent with all other provisions of the Harbor Management Plan.

17. On-Shore Lighting

- a. All lights emanating from shore or waterfront facilities, including lights on public lands and privately owned properties, but excluding lights specifically designed to aid navigation, should be designed and maintained to avoid negative impacts on navigation. Lighting units should be installed in accordance with best available technology to restrict illumination to the appropriate shoreline areas.

PUBLIC HEALTH, SAFETY, AND WELFARE POLICIES

1. Capacity for Safe Boating and Other Water Uses

- a. It should be recognized that the capacity of the navigable waters of the Harbor Management Area to accommodate safe boating and other water uses is limited and that such capacity is subject to change over time. Design and review of proposals affecting the HMA, including proposals with water access facilities, should take into consideration the capacity of the HMA's navigable waters to accommodate increased water use while maintaining safe and efficient navigation, avoiding vessel congestion, and supporting beneficial recreational and commercial uses of the HMA.

2. Vessel Speed and Wake

- a. The operation of all vessels in the Harbor Management Area shall be in accordance with all applicable Town, state, and federal boating laws, regulations, and ordinances including, but not limited to, Sections 15-140k and 15-140m of the Connecticut General Statutes concerning reckless operation of a vessel, and any sections of the East Lyme Code of Ordinances concerning the operation of vessels. Strict and effective enforcement of applicable laws, regulations, and ordinances

should be encouraged and supported, including the imposition of appropriate penalties for violations. Strict and effective enforcement of vessel speed limits should be carried out by the Police Department's Marine Patrol Unit (in coordination with the Waterford Police Department) and the Department of Environmental Protection's Marine Enforcement Unit.

- b. Any person operating a vessel in the HMA at such a speed as to cause a wake shall be held responsible for any damage caused by the wake, in accordance with applicable sections of the Connecticut General Statutes and State of Connecticut boating laws and regulations.
- c. Restricted speed zones may be established by Town Ordinance, as necessary, in accordance with Sec. 15-136 of the Connecticut General Statutes and upon recommendation by the Harbor Management Commission, Harbor Master, and East Lyme Police Department and approval by the Connecticut Commissioner of Energy and Environmental Protection. For the purpose of protecting the safety of persons and property and for protection of environmentally sensitive resources from damage caused by the wakes of vessels, no person shall operate any power-propelled vessel at a speed in excess of six (6) miles per hour within any restricted speed zone. Vessels within a restricted speed zone must leave a minimal wake.²
- d. Other vessel speed regulations as may be needed to protect the safety of persons and property and protect environmentally sensitive resources in the HMA may be enacted by Town Ordinance as authorized by Sec. 15-136 of the Connecticut General Statutes and recommended by the HMC, Harbor Master, and Police Department and approved by the Connecticut Commissioner of Energy and Environmental Protection.
- e. The HMC, Harbor Master, and Police Department should coordinate their actions and authorities to increase public awareness of Town and state regulations concerning the operation of vessels in the HMA and achieve effective enforcement of those regulations. Placement of buoys, signs, and other markers identifying restricted speed zones shall be in accordance with all applicable laws, regulations, and ordinances, and must be in compliance with the permit requirements of the U.S. Coast Guard and Connecticut Department of Energy and Environmental Protection.
- f. The operation of all personal watercraft in the HMA must be in accordance with all applicable boating laws and regulations and should not result in undue noise or other nuisance impacts.

2 When establishing restricted speed zones by Town ordinance, it will be recognized that the Regulations of Connecticut State Agencies define "Slow-No-Wake" to mean that a vessel shall not produce more than a minimum wake and shall not attain speeds greater than 6 miles per hour over the ground unless a higher minimum speed is necessary to maintain steerageway when traveling with a strong current. In no case shall the wake produced by the vessel be such that it creates a danger of injury to persons or will damage vessels or structures of any kind.

3. Emergency Planning and Response

- a. Capital and operating budget requirements for necessary provision of emergency services and other assistance to boaters and other users of the Harbor Management Area and waterfront by the East Lyme Police Department and Fire Department should be supported.
- b. Necessary capabilities for effective response to emergency situations on, in, or contiguous to the HMA by the responsible Town, state, and federal authorities should be maintained and, to the extent feasible, enhanced.
- c. Emergency response activities should be coordinated to the maximum extent feasible with neighboring municipalities and among responsible authorities, including the Harbor Master.
- d. The Town's Emergency Operations Plan (EOP) should address the range of emergency situations and responses possible in the HMA. Effective implementation of the EOP should be encouraged and supported. The Harbor Management Commission may provide pertinent information concerning conditions in the HMA to the appropriate Town, state, and federal authorities with responsibilities for formulation and implementation of the EOP, and may assist those agencies, as requested, with implementation of the EOP.
- e. All boating and yacht clubs and public and private marina facilities should develop and maintain emergency procedures for securing and protecting vessels and other property from the impacts of flooding and erosion.
- f. All appropriate measures to avoid, prepare for, and respond to fuel and chemical spill emergencies in the HMA should be encouraged and supported.
- g. Boating facilities dispensing fuel should develop and maintain appropriate fuel spill contingency plans and, to the extent feasible, coordinate response actions and the use of available fuel spill containment equipment.
- h. Fuel and chemical spill preparedness and response activities should be coordinated to the maximum extent possible among responsible Town, state, and federal authorities and the operators of private facilities dispensing fuel.
- i. Equipment necessary for the control of fuel and chemical spill emergencies should be properly maintained and periodically inspected to ensure continued readiness for responding to fuel spill emergencies.
- j. All fueling of vessels berthed or stored on, in, or contiguous to the HMA shall take place in accordance with all applicable laws and regulations to maintain public health, safety, and welfare and to avoid adverse impacts on environmental quality.

4. Fire Prevention and Preparedness

- a. All waterfront commercial facilities shall provide appropriate fire prevention and preparedness measures as required by the Fire Marshall, including adequate access for fire and other emergency vehicles and adequate water supply available on the site for fire-fighting purposes. Standards and guidelines contained in the Connecticut Fire Safety Code which incorporates codes and standards established by the National Fire Protection Association should be incorporated in the design and construction of all boating facilities.

5. Avoiding Water Use Conflicts

- a. Provision of any additional facilities for access to the Harbor Management Area, including recreational boating facilities such as, but not limited to, docks, floats, piers, and mooring locations, should be balanced against the need to ensure safe and efficient navigation, support beneficial recreational and commercial uses, and avoid: a) congestion in the HMA; b) conflicts among different recreational activities, including power boating and nonmotorized water activities; and c) conflicts between recreational and commercial vessels.
- b. Anchoring, swimming, and underwater diving should not occur within designated channels and fairways except for emergency or inspection purposes that do not pose a hazard or obstruction to navigation.
- c. Water skiing and board-sailing should not occur within designated channels, except as necessary to cross or make use of the same for navigational purposes in a manner that does not pose a hazard or inconvenience to navigation.
- d. Vessel-based fishing should not occur within designated channels in a manner that poses a hazard or inconvenience to navigation.
- e. Sea plane takeoffs and landings in the HMA should not interfere with general navigation, recreational boating, and other activities and should be conducted in accordance with all applicable laws and regulations.
- f. Except by specific authorization, or in the case of an emergency, no vessel should enter into the area of any public beach as indicated by official markers placed by the Parks and Recreation Department or into any privately designated beach area.
- g. Water-related events should be scheduled and coordinated in a manner to avoid or minimize congestion in the HMA and potential conflicts among events and participants.

- h. All activities and events involving special purpose craft such as rowing shells, sail boards, kayaks, and other vessels should be planned and undertaken in a manner to reduce or avoid potential conflicts and negative impacts affecting general navigation in the HMA.
- i. Any negative effects of onshore lights on navigation should be reduced and/or eliminated. The installation of any high intensity lighting units directed toward the water should be restricted to those uses required for the operation and/or security of water-dependent uses. In all cases, lighting units should be installed in accordance with best available technology to restrict the illumination to the required area.
- j. No mooring tackle should be placed that would allow moored vessels to unduly interfere with traditional boating activity areas in the HMA.

6. Derelict Vessels and Structures

- a. In accordance with State of Connecticut boating statutes and regulations, including Sections 15-11a and 15-140c of the Connecticut General Statutes, all abandoned vessels as defined in the General Statutes shall be removed from the Harbor Management Area according to the procedures initiated by the Police Department, Harbor Master, or other party of standing and specified in the General Statutes. Nothing herein shall prevent the Harbor Master from taking immediate action, consistent with the General Statutes, to remove an abandoned vessel that presents a hazard to navigation.
- b. No building, structure, or floating facility on, in, or contiguous to the HMA, including but not limited to any bulkhead, seawall, or marine facility, either on land or waterward of the Coastal Jurisdiction Line, should be allowed to deteriorate to the point that a hazard or obstruction to navigation or condition adversely affecting public safety may result. All in-water structures authorized by state and/or federal permits in the HMA shall be maintained in accordance with the maintenance conditions specified in those permits. Any observed deterioration of a state- or federally authorized in-water structure affecting or potentially affecting navigation safety and/or environmental quality in the HMA should be brought to the attention of the appropriate state and/or federal agency for appropriate enforcement action.
- c. All derelict, abandoned, or deteriorated vessels and structures presenting a hazard or obstruction to persons, property, marine resources, environmental quality, or navigation should be marked, as necessary, and removed from the HMA in the most timely manner in accordance with applicable Town, state, and federal laws, regulations, and ordinances, including but not limited to: a) Sec. 15-1 of the Connecticut General Statutes which gives the Harbor Master responsibility for the safe and efficient operation of the navigable waterways of the HMA; b) Sec. 15-8 of the General Statutes which authorizes the Harbor Master to station all vessels riding at anchor in the navigable waterways subject to his jurisdiction; c) Sec. 15-9 of the General Statutes which authorizes the Harbor Master to remove vessels whose owners

or masters willfully neglect or refuse to obey an order of the Harbor Master; d) Sec. 15-11a and Sec. 15-140(c) of the General Statutes concerning removal of derelict and abandoned vessels; e) Sec. 22a-363b of the General Statutes concerning activities eligible for authorization by a Land and Water Resources Division Certificate of Permission; and f) federal law requiring the owner of any vessel sunken in navigable waters to remove the vessel as soon as possible and to mark it in the meantime with a buoy or day-marker during day and a light at night.

- d. Town, state, and federal agencies and officials, including the Harbor Management Commission, Police Department, Public Works Department, Harbor Master, Connecticut Department of Energy and Environmental Protection, U.S. Army Corps of Engineers, and U.S. Coast Guard, should coordinate their efforts and resources and work cooperatively to: a) mark, as necessary, any hazard or obstruction to navigation for the benefit of navigators; b) minimize the risk to environmental resources caused by any derelict, abandoned, or deteriorated vessel or structure; and c) achieve repair or removal of any derelict, abandoned, or deteriorated vessel or structure from the HMA in the most timely manner.

7. Boating Education

- a. Local training and educational programs to promote boating safety, including boating safety courses offered by the Coast Guard Auxiliary and other organizations offering courses approved by the Commissioner of Energy and Environmental Protection, should be encouraged and supported.

8. Coastal Resiliency

- a. All construction in designated flood and erosion hazard zones contiguous to the Harbor Management Area shall conform to Town and state floodplain regulations and construction standards.
- b. Living shoreline³ and nonstructural⁴ alternatives to the use of seawalls, bulkheads, revetments, breakwaters, jetties, groins, and other structural measures for protecting existing development from flooding and erosion should be encouraged where

³ Living shoreline shore protection techniques, defined in the CCMA, utilize “a variety of structural and organic materials such as tidal wetland plants, submerged aquatic vegetation, coir fiber logs, sand fill, and stone to maintain or restore coastal resources and habitat” as a “feasible, less environmentally damaging alternative” to structural solutions for shoreline protection. (See Sec. 22a-92(e) of the General Statutes.)

⁴ Nonstructural shore protection measures generally include planning, public policy, and regulatory measures intended to discourage or avoid dangerous, uneconomical, or unwise use of floodplains and erosion-prone areas, as distinguished from more traditional structural methods such as revetments, seawalls, groins, and breakwaters used to decrease shoreline erosion, wave damage, and flooding.

feasible and in all instances considered by the owners/operators of waterfront sites and facilities. Those proposing to use structural measures to protect existing development must demonstrate compliance with the applicable policies of the Connecticut Coastal Management Act (CCMA), including the policies that call for: 1) minimizing the adverse impacts of erosion and sedimentation on coastal land uses through the promotion of nonstructural mitigation measures; and 2) considering feasible, less environmentally damaging alternatives to structural solutions, including, but not limited to, living shorelines techniques (See policies 8.e and 8.f below and Appendix G.)⁵

- c. Where consistent with coastal management policies established in the CCMA concerning flood and erosion control measures, timely repair and maintenance of properly authorized bulkheads and other shore protection structures as needed to protect existing water-dependent uses, commercial and residential structures (constructed as of January 1, 1995), infrastructure, and other development specified in the CCMA from flooding and erosion should be encouraged and supported.
- d. To achieve consistency with the CCMA, structural solutions to flood and erosion problems are permissible when necessary and unavoidable for the protection of infrastructural facilities, water-dependent uses, commercial and residential structures constructed as of January 1, 1995, and other structures and uses specified in the CCMA, and where there is no feasible, less environmentally damaging alternative (defined pursuant to the CCMA), and where all reasonable mitigation measures and techniques (defined pursuant to the CCMA) have been provided to minimize adverse environmental impacts, including impacts on coastal resources, ecological functions, and properties adjacent to or nearby the sites of the structural solutions. (See Sec. 22a-92(b)(2)(J) of the Connecticut General Statutes.)
- e. Living shoreline and nonstructural measures should be encouraged and supported in appropriate locations in accordance with detailed plans to provide enhanced shore protection, avoid unwise use of flood and erosion hazard areas, and modify susceptibility to coastal hazards without utilizing structural solutions such as seawalls, bulkheads, and revetments. The natural protective features of coastal resources, including beaches, dunes, tidal wetlands, and intertidal flats, should be recognized; those features should be utilized, to the extent practical and feasible, to provide effective shore protection.
- f. Living shorelines techniques utilizing a variety of structural and organic materials such as tidal wetland plants, submerged aquatic vegetation, coir fiber logs, sand fill and stone to provide shoreline protection and maintain or restore coastal resources and habitat should be encouraged and supported, where feasible, to: stabilize the

⁵ The CCMA specifies that the primary purpose of living shorelines projects is the “restoration or enhancement of tidal wetlands, beaches, dunes or intertidal flats,” and that a living shorelines project, for purposes of the CCMA, is not considered a shoreline flood and erosion control structure. (See Sec. 22a-109(c) of the General Statutes.) See the information from the Office of Long Island Sound Programs concerning Shoreline Flood and Erosion Control Structures in Appendix G.

- shoreline and reduce current rates of shoreline erosion and storm damage; provide ecosystem services (such as habitat for fish and other aquatic species); increase flood storage capacity; and maintain connections between land and water ecosystems to enhance resilience.
- g. Pre-hazard mitigation measures to reduce adverse impacts of coastal hazards on residents, public facilities, businesses, private property, and coastal resources should be encouraged and supported, including, but not limited to: continued analysis of hazard risks; identification of vulnerable and at-risk areas and facilities, including critical infrastructure; development of effective land-use policies, standards, and regulations implemented through the East Lyme Plan of Conservation and Development and Municipal Coastal Program; public construction and investment decisions; and programs to increase public awareness and education concerning coastal hazards.
 - h. Effective plans and programs for emergency operations and response, including procedures for issuing forecasts and warnings to the public and otherwise providing public information should be prepared, tested, and updated as needed. Facilities, equipment, and training needed for effective emergency response should be encouraged and supported, along with coordination among all agencies with emergency responsibilities.
 - i. Post-event recovery and reconstruction in a manner to reduce future vulnerability to coastal hazards should be facilitated. Post-event assessments, including assessments of damage and emergency response actions, should be encouraged and supported; emergency preparedness plans should be adjusted accordingly; and financial and technical assistance to aid recovery and reconstruction should be facilitated.
 - j. An effective Town program of corrective and preventive measures for reducing flood damage should be maintained. All construction in designated flood and erosion hazard zones, including Special Flood Hazard Areas and Coastal High Hazard Areas, should conform to applicable floodplain regulations and construction standards. The Town's good standing in the NFIP should be maintained; variances to the Town's floodplain management regulations that would result in any diminution of that good standing should be avoided.
 - k. Long-term climate change impacts, including impacts that may be caused by rising sea level, should be considered in planning, design, and cost determinations for infrastructure such as, but not limited to, municipal and private roads, water and sewer systems, and electric utilities.

WATERFRONT USE AND DEVELOPMENT POLICIES

1. Waterfront Development Planning and Review

- a. All public and private development proposals affecting the real property on, in, or contiguous to the Harbor Management Area should be carefully planned and reviewed for consistency with the *East Lyme Harbor Management Plan* and to mitigate any potentially significant adverse impacts on beneficial uses and conditions in the HMA.
- b. Opportunities for stimulating sustainable economic benefits through water-dependent and water-enhanced development on, in, or contiguous to the HMA should be encouraged and supported, where such development is consistent with all other applicable provisions of the Plan and the East Lyme Plan of Conservation and Development.
- c. All Town-supported planning and development initiatives affecting the waterfront and HMA should be undertaken in the most coordinated manner possible, emphasizing consistent project objectives related to future commercial and recreational uses of the HMA and waterfront and the protection of coastal resources.
- d. The Harbor Management Commission should serve in an advisory capacity on all Town-supported development initiatives affecting the HMA. (See Harbor Administration Policies.)
- e. The HMC should also function in an advisory capacity to the Planning and Zoning Commissions and the Zoning Board of Appeals in the review of private waterfront development proposals involving a water use and/or construction (with the exception of specified minor projects). (See Harbor Administration Policies.)
- f. The potential effects of waterfront development proposals on future water uses, activities, and navigation in the HMA should be an important consideration in the design of waterfront development proposals and the review of those proposals for consistency with the Harbor Management Plan, including review by the HMC, the Planning and Zoning Commissions, other Town commissions, state regulatory agencies, and the U.S. Army Corps of Engineers.
- g. The Town should continue to implement (through appropriate zoning and other regulations) the policies of the East Lyme Municipal Coastal Program and Coastal Area Development Plan to support and encourage the development and continued operation of water-dependent (as opposed to water-enhanced) land uses on waterfront sites.

- h. Public access to the waterfront should be promoted wherever feasible, but the Town should ensure, through appropriate zoning requirements and appropriate incentives, that existing water-dependent uses are not replaced by non-water dependent uses providing only public access as a mitigating factor. (See Water Access Policies.)

2. Construction of In-Water Structures

- a. All docks, piers, floats, and other in-water structures in the Harbor Management Area should be set back from the boundaries of designated channels, mooring areas, anchorages and fairways a sufficient distance (see Boating and Water Use Policies) to ensure that these structures and any vessels attached to them do not interfere with safe and efficient navigation.
- b. For the purpose of minimizing potential adverse impacts on coastal resources and navigation, construction of private docks, floats, and piers by groups of waterfront homeowners or incorporated neighborhood associations for group use on commonly owned property should be encouraged.
- c. Construction of in-water structures should not have a significant impact on coastal resources, water-access opportunities, scenic quality, and traditional water uses. In all cases, alternatives to the construction of fixed structures to reach navigable water should be considered where those alternatives would reduce potential adverse impacts on coastal resources, water access opportunities, scenic quality, and traditional water uses.
- d. Floats, docks, piers, and other in-water structures should be of minimal length necessary to reach navigable water. The appropriate extent to which in-water structures should extend seaward in order to reach navigable water should be evaluated by the Harbor Management Commission taking into consideration the littoral rights of waterfront property owners, existing conditions in the HMA such as distance from shore to navigable water, public access requirements, the presence of coastal resources such as intertidal flats, tidal wetlands, shellfish beds, and other conditions.
- e. Boat slips should not be used for boats that exceed the design size of the slip. Vessels should not be berthed so as to extend past any tie-out poles used to secure the vessel in its slip if such extension adversely affects safe and efficient navigation.
- f. To reduce potential adverse impacts on navigation resulting from the construction of new or extended in-water structures, design guidelines established by the U.S. Army Corps of Engineers (and adopted as guidelines by the HMC) for the placement of fixed and floating structures in navigable water should be considered by the HMC in its review of proposed in-water structures. In the absence of compelling reasons to the contrary, including the need to protect valuable coastal resources, new or extended in-water structures should be consistent with the USACE's guidelines. (See "Guidelines for the Placement of Fixed and Floating

Structures in Navigable Waters of the United States Regulated by the New England District U.S. Army Corps of Engineers,” July 1996.)

- g. To reduce potential adverse impacts on navigation resulting from the construction of new or extended in-water structures and to ensure compliance with any conditions included in the state and/or federal approvals for those structures, the permittee should be required, as a permit condition, to provide an “as-built” survey or other documentation following completion of the permitted construction.
- h. No public or private float, dock, pier, or other in-water structure should be allowed to deteriorate to the point that a hazard or inconvenience to navigation or condition adversely affecting public safety and/or environmental quality may result. All state- and federally authorized in-water structures in the HMA shall be maintained in accordance with the maintenance conditions specified in those authorizations. Any observed deterioration of a state- or federally authorized in-water structure affecting or potentially affecting navigation and/or environmental quality in the HMA, including any leakage of material into the HMA from behind the structure, should be brought to the attention of the appropriate state and/or federal agency for appropriate remedial action.
- i. Authorization for the placement of structures below the Coastal Jurisdiction Line should be granted only to applicants who possess the littoral right to place such structures.

3. Filling and Stabilization of Waterfront Property

- a. Repair of existing bulkheads and other shore protection structures on individual sites should be encouraged in coordination with any waterfront redevelopment projects affecting those same sites.
- b. Filling of aquatic areas waterward of the Coastal Jurisdiction Line to create additional land area for development should be discouraged.

4. Shorefront Neighborhoods

- a. Activities in the Harbor Management Area and use and development of the waterfront should be carefully planned, reviewed, and regulated to avoid any significant adverse impacts on the quality of life in waterfront neighborhoods.
- b. In-water and waterfront activities should not cause nuisance impacts that adversely affect waterfront residential areas, including but not limited to noise, litter, unshielded light, and wave impacts. State boating regulations limiting motorboat noise levels should be effectively and strictly enforced.
- c. The planning and review of new facility development and activities in the HMA should take into consideration not only cumulative impacts on coastal resources

and the capability of coastal resources to accommodate increased development (see Coastal Resources Policies) but also potential impacts on the existing character and quality of life in shorefront residential neighborhoods. Potential adverse impacts should be minimized or eliminated.

5. Littoral Rights

- a. Plans and proposals to improve existing water-access facilities or to provide new water-access opportunities should be consistent with the littoral rights of waterfront property owners.
- b. The exercise of littoral rights by waterfront property owners should not have a significant adverse effect on coastal resources, scenic quality, traditional water uses, and other public values associated with the land and water resources waterward of the Mean High Water line.
- c. The construction of public and private docks and piers and the placement of swimming markers should not infringe on the littoral rights of adjoining property owners.
- d. The littoral rights of the owners of land contiguous to the Harbor Management Area, including the right of access to the water, the right of accretions and relictions, and the right to other improvements and useful purposes, should be protected where the exercise of those rights is carried out in a reasonable manner without substantial impairment of the public's interest in or use of the Public Trust area. (See Water Access Policies.)

WATER ACCESS POLICIES

1. Water Access Opportunities

- a. The Town should encourage and support the provision of facilities and opportunities for public access to the East Lyme Harbor Management Area, consistent with the capacity of the HMA and waterfront to accommodate those facilities and opportunities in a safe and environmentally sound manner. Public access should be considered as physical and/or visual access to the HMA that will be available to all members of the general public and not limited to any particular groups or individuals.
- b. The Town should promote and support the provision of public access to the HMA through existing publicly owned lands. Acting in coordination with private non-profit organizations when appropriate, the Town should pursue the acquisition of waterfront land and easements (through purchase, donation, or other proper means) when such opportunity may arise and where such acquisition will provide opportunities for public access to the HMA and enhance the overall beneficial value and usefulness of the Town's open space system.

- c. Areas and facilities for public access to the HMA should be provided in coordination with implementation of the East Lyme Plan of Conservation and Development and Municipal Coastal Program. To the extent possible, the Town should require the provision of well-designed public access to the HMA by all waterfront development subject to the Town's Coastal Site Plan Review authority, excepting one- and two-family dwellings, and development for principal uses that are water dependent within the meaning of the Connecticut Coastal Management Act. (See Harbor Administration and Coordination Policies.)
- d. Well-designed pedestrian walkways and other amenities should be provided and maintained to link public waterfront areas with the commercial areas of the Town.

2. Use of Water-Access Right-Of-Ways

- a. The Harbor Management Commission may identify and evaluate opportunities for improving physical and visual access to the Harbor Management Area through Town-owned street ends and other water access right-of-ways, including the old Town fire docks. Where feasible, the Town should improve Town-owned water access right-of-ways for public access in the near term and in all cases ensure the retention of these access opportunities for future enhancement and public use.
- b. Any improvement of Town-owned water access right-of-ways for public water-access purposes should be consistent with existing neighborhood character and zoning designations.
- c. As time and budget resources allow, the Town should conduct any necessary investigations to clarify the ownership of waterfront street ends and other water-access right-of-ways.

3. Use of Town Beach Areas

- a. Opportunities for improving public access to the water through the Town's public beach areas should be fully utilized. To the extent feasible, the Town should promote and encourage enhanced water-dependent use and activities at the Town beaches, including visual and physical access opportunities. These uses and activities should be consistent with all applicable Harbor Management Plan provisions, and consistent with the capacity of the beach areas to accommodate enhanced or expanded use.

4. Access to Mooring Areas

- a. Where consistent with traditional neighborhood uses and activities and all applicable regulations for use of Town roads, public and privately owned water access right-of-ways may be considered for use as limited access points to mooring areas.

- b. Establishment of a privately operated launch service to provide access to mooring areas from new or enhanced public boating facilities should be encouraged and supported.
- c. Access to commercial moorings locations should be through facilities provided by the holder of the commercial mooring permit. Town-owned street ends and other water access right-of-ways should not be used for access to commercial moorings locations without the expressed approval of the HMC and Harbor Master.

5. Public Trust Rights

- a. The public's rights associated with the Public Trust area waterward of the Mean High Water line in the Harbor Management Area are recognized and protected, including, but not limited to, the right of navigation and the right to pass and re-pass along the shoreline in the intertidal area, subject to any lawfully enacted restrictions in the public interest.

COASTAL RESOURCES AND WATER QUALITY POLICIES

1. Recognizing the Capacity of Harbor Resources to Accommodate Additional Uses and Development

- a. Development affecting real property on, in, or contiguous to the Harbor Management Area and all uses of the HMA should be balanced with the need to protect natural coastal resources and should not result in significant adverse impacts on environmental quality.
- b. The design and review of development proposals affecting real property on, in, or contiguous to the HMA should take into consideration cumulative impacts on coastal resources and the capacity of coastal resources to support the proposed development without significant disruption of the natural environment. The design and review of development proposals also should be guided by recognition that there are limits to the amount of growth and development that the HMA can absorb without important public values being lost as a result of environmental degradation. It is recognized that cumulative impacts on environmental quality can result from individually minor but collectively significant actions taking place over a period of time.
- c. Determinations of the capacity of the HMA for accommodating new development should be carried out through the case-by-case review of individual development proposals by the Harbor Management Commission and state and federal regulatory agencies. This review should address: 1) the capacity of coastal resources to support development and other uses of the HMA; and 2) any potential public safety and navigation impacts associated with increased water use and activity.

- d. Development projects that affect currently undeveloped areas and areas of environmental sensitivity may be subject to more detailed review than projects in already developed areas.
- e. It is the responsibility of project applicants to provide the information necessary for the Harbor Management Commission to adequately assess the potential impacts of proposed development projects on coastal resources in the HMA. Any information required should be reasonable in scope and commensurate with the size, type, or scale and potential positive and negative impacts of the proposal. (See Harbor Administration Policies.)

2. Protection and Management of Fisheries Resources, Including Shellfish Resources

- a. Opportunities for vessel- and shore-based recreational fishing in the Harbor Management Area should be maintained and, to the extent feasible, enhanced.
- b. Along with other beneficial water-dependent recreational and commercial uses of the HMA, recreational and commercial fishing activities should be encouraged and supported with consideration of the sustainable capacity of fisheries resources in the HMA as determined by the appropriate resource management agencies of the State of Connecticut.
- c. Necessary measures to protect, maintain, and enhance fisheries habitat and resources in the HMA for recreational and commercial use and public enjoyment, consistent with Town, state, and federal laws and regulations, should be encouraged and supported. To the extent feasible, the number of areas currently open to recreational shellfishing should be expanded through appropriate management techniques and controls.
- d. Any fish harvesting structures in the HMA requiring state and/or federal authorization, including but not limited to structures supporting marine pound nets, should be designed, constructed, and maintained to avoid any adverse impacts on navigation and coastal resources, including recreational fisheries, and on the public's right to uses of the HMA consistent with the Public Trust Doctrine.
- e. Implementation of the East Lyme Harbor Management Plan should be coordinated with implementation of the East Lyme Shellfish Management Plan and should take into consideration an assessment of current shellfish resource areas (including the location of Town-controlled and private beds) and the establishment of appropriate Town regulations for shellfish resource management. A carefully monitored pilot program for restoration of shellfish habitat should be encouraged and supported. If successful, similar projects should be carried out in the HMA under the direction

of the Harbor Management Commission acting in its capacity as the East Lyme Shellfish Commission.⁶

- f. The East Lyme Shellfish Commission should coordinate its activities with the Waterford-East Lyme Shellfish Commission to ensure that the management and planning activities carried out by each commission in the HMA are consistent and coordinated.
- g. For the purpose of these policies, East Lyme shellfish resources shall include: a) populations of shellfish species; and b) the natural areas (habitat) with characteristics for supporting one or more of those species. Shellfish habitat should be recognized as including tidal waters, underwater lands, submerged aquatic vegetation, tidal wetlands, and intertidal flats in the HMA.
- h. It is recognized that natural features of the HMA, including its estuarine environment, submerged aquatic vegetation, tidal wetlands, and intertidal flats provide shellfish habitat of especially high resource value.
- i. The State of Connecticut Coastal Management Program and East Lyme Municipal Coastal Program recognize that intertidal flats and tidal wetlands provide significant habitat for shellfish. The State of Connecticut has enacted legislative policies to manage intertidal flats to preserve their value as a nutrient source and reservoir and healthy shellfish habitat and to preserve tidal wetlands to maintain their vital natural functions. (See Sections 22a-92(b)(2)(D) and (E) of the Connecticut General Statutes.)
- j. It is recognized that shellfish habitat, including submerged aquatic vegetation, tidal wetlands, and intertidal flats, is susceptible to adverse impacts, including acute and cumulative impacts, caused by the installation, presence, or use of water access structures (such as, but not limited to, docks, floats, piers, and moorings) and other in-water and intertidal structures and activities. Further, it is recognized that structures resting on intertidal areas can cause scouring and anoxic conditions that are acutely and cumulatively harmful to benthic resources, including shellfish resources.

⁶ The East Lyme Harbor Management Commission is authorized by the East Lyme Harbor Management Ordinance to carry out the powers and duties of the municipal shellfish commission of the Town. As authorized by Article I, Sec. 2b of the Harbor Management Ordinance, the HMC shall have charge of all shellfisheries and shellfish grounds lying in the Town of East Lyme not granted to the Waterford-East Lyme Shellfish Commission by the Connecticut General Statutes, and not under the jurisdiction of the commissioner of agriculture, including all rivers, inland waters and flats adjacent to all beaches and waters within the limits and marine bounds (below the Mean High Water line) of the Town. The name “East Lyme Shellfish Commission” as used in this chapter of the Harbor Management Plan shall mean the HMC when carrying out its powers and duties as the Town’s municipal shellfish commission.

- k. Within any significant shellfish resource areas designated by the East Lyme Shellfish Commission in the East Lyme Shellfish Management Plan, the cultivation, transplantation, harvest, and general management of shellfish should have priority over all other uses.
- l. New navigation channels, turning basins, fairways, and anchorage areas should not be dredged in significant shellfish resource areas designated by the East Lyme Shellfish Commission in the East Lyme Shellfish Management Plan.
- m. New structures such as docks, piers and moorings should not adversely affect significant shellfish resource areas designated by the East Lyme Shellfish Commission in the East Lyme Shellfish Management Plan and should be in accordance with all applicable rights of shellfish bed owners and lessees.
- n. The East Lyme Shellfish Commission should evaluate all proposed uses or activities affecting its jurisdiction for potential impacts on shellfish resources and opportunities for shellfish cultivation and/or harvesting.
- o. Proposals affecting the real property on, in, or contiguous to the HMA that would cause acute and/or cumulative adverse impacts on: a) shellfish resources; or b) opportunities for shellfish cultivation and/or harvesting should be avoided. Proposals that could affect shellfish resources or cultivation and/or harvesting opportunities should be carefully designed and evaluated to avoid adverse impacts on those resources and opportunities.
- p. To avoid acute and cumulative adverse impacts on shellfish resources, no proposal for a water access project should be approved that would allow any floating dock and/or vessel attached to that dock to rest on any shellfish resource area in the HMA during normal tide cycles. Exceptions to this policy may only be considered if the applicant clearly demonstrates, to the satisfaction of the Department of Energy and Environmental Protection's Office of Long Island Sound Programs that: 1) no significant adverse impacts on shellfish resources will occur; and/or 2) there is an otherwise compelling reason why a different action should be taken.
- q. No proposal for a water access project involving in-water and intertidal structures and activities should be approved that would cause, in the judgment of the DEEP LWRD, any undue impediment to shellfish cultivation and/or harvesting opportunities. Exceptions to this policy may only be considered if the applicant clearly demonstrates, to the satisfaction of the DEEP LWRD that: 1) no significant adverse impacts on shellfish resources will occur; and/or 2) there is an otherwise compelling reason why a different action should be taken.
- r. Any aquaculture activities in the HMA, including but not limited to activities regulated exclusively by the Connecticut Department of Agriculture Bureau of Aquaculture (DA/BA) and utilizing structures such as but not limited to docks, racks, cages, bags, and nets as well as buoys to mark the location of such activities, should

be designed, constructed, and maintained to avoid any significant adverse impacts on navigation, coastal resources, and public safety in the HMA. Applications for aquaculture activities submitted to the DA/BA or any other agency should be reviewed for consistency with the Harbor Management Plan.

3. Protection of Intertidal Resources (Tidal Wetlands and Intertidal Flats)

- a. The ecological values of tidal wetlands and intertidal flats, including values related to fish and wildlife habitat, nutrient productivity, water quality functions, and flood-water storage and buffer should be protected.
- b. Unless consistent with Town, state, and federal laws, regulations, and ordinances, new boat basins, navigation channels, turning basins, fairways and mooring/anchorage areas should not be dredged in viable and productive intertidal resource areas, including significant shellfish resource areas that may be designated by the East Lyme Shellfish Commission, unless adverse impacts have been minimized to the greatest extent possible and any remaining impacts are considered acceptable.
- c. Consistent with Town, state, and federal laws, regulations, and ordinances, new structures such as docks and piers should not have significant adverse impacts on viable and productive shellfish resource areas.
- d. Degraded intertidal resources on, in, or contiguous to the HMA should be restored, to the extent feasible, where such restoration will enhance the quality of natural coastal resources through improvements to water quality, scenic quality, fish and wildlife habitat, and other natural values. Restoration of tidal wetland resources and associated ecological functions historically lost or degraded by placement of fill material or restriction of tidal flow in the HMA should be encouraged and supported to the extent feasible.
- e. Any project for restoring intertidal resources should be in accordance with a detailed plan based on best available scientific information, formulated with input from potentially affected parties, and including a careful review of environmental costs and benefits by Town agencies with relevant authorities. The effects of any project for restoring intertidal resources should be carefully monitored and evaluated over time.
- f. It should be recognized that maintenance, repair, and replacement of existing bulkheads, revetments, seawalls, and other shore protection structures to support water-dependent uses and other beneficial purposes in the HMA can result in the incremental and cumulative encroachment of those structures into intertidal areas. All bulkhead maintenance, repair, and replacement projects should be designed and reviewed to avoid waterward extension to the extent feasible, thereby avoiding adverse impacts on coastal resources and navigation.

- g. Existing docks, floats, and other water access structures associated with bulkheads to be maintained, repaired, or replaced in the HMA should be rebuilt in kind and in place with no additional encroachment into the HMA following bulkhead maintenance, repair, or replacement. The permittee shall be required, as a condition of any state and/or federal approval needed for bulkhead maintenance, repair, or replacement, to provide an “as-built” survey or other documentation following project completion to show that no additional encroachment of the bulkhead and associated water access structures has occurred.
- h. All new erosion control structures in the HMA, including bulkheads, revetments, and seawalls, should be designed, constructed, and maintained to avoid significant adverse impacts on intertidal resources.

4. Water Quality

- a. The implementation of all feasible measures to maintain and improve surface water quality in the Harbor Management Area, including implementation and enforcement of applicable Town, state, and federal laws and regulations, should be encouraged and supported.
- b. Efforts to improve water quality in the HMA through reduction or elimination of point and nonpoint sources of pollution (including stormwater runoff from roads, bridges, parking areas, and other surfaces as well as seepage from septic systems), should be encouraged and supported.
- c. Efforts to improve water quality in the HMA should include: improvement and repair of stormwater collection and treatment facilities as necessary in accordance with best available technology; reduction or elimination of pollution caused by boating activities; reduction of the amount of sand, debris, and other pollutants discharging into the HMA from roads, bridges, and waterfront properties; and reduction or elimination of all other human activities that unnecessarily introduce sediment, debris, or pollutants into the HMA.
- d. The use of suitable best management practices (BMPs) to manage, reduce where feasible, or otherwise control stormwater runoff into the HMA should be encouraged and supported, including but not limited to establishment and maintenance of: buffer zones of natural vegetation to naturally filter polluted runoff draining into the HMA; appropriate buffer/setback distances around tidal wetlands in and adjoining the HMA; cost-effective and sustainable Low Impact Development (LID) strategies, including rain gardens, vegetated swales, permeable pavements, and vegetated riparian buffer areas; public outreach and education initiatives; and other BMPs for site planning, source control, and stormwater treatment identified in the Connecticut Department of Energy and Environmental Protection's Stormwater Manual.

- e. All new development generating significant stormwater discharges directly or indirectly into the HMA should be required to employ appropriate stormwater treatment systems and technology, including swirl-type grit chambers where necessary, to reduce the potential for nonpoint source pollution to enter the HMA. All such systems and technology should be properly maintained and operated in accordance with regularly scheduled maintenance procedures and all accumulated residue should be properly disposed of.
- f. The Town should continue to upgrade its wastewater collection and treatment facilities, as necessary, in accordance with best available technology. The Water and Sewer Commission's capital budget requirements necessary for continuing sewer system improvements should be supported.
- g. An effective, ongoing program of water quality monitoring in the HMA and upstream in the Niantic River by qualified governmental and nongovernmental organizations should be encouraged and supported to identify existing and potential sources of pollution and to establish and maintain a data base of information to support water quality improvement efforts by Town, state, and federal agencies with water quality-related responsibilities and authorities. The Town should vigorously pursue the highest, reasonably attainable water quality classification in the HMA through the correction or elimination of both point and non-point sources of pollution, including storm water runoff.
- h. Vessel holding tanks for sanitary wastes should not be discharged into the HMA. Existing state and federal regulations controlling the disposal of wastes from vessels should be effectively publicized for area boaters and strictly enforced by the appropriate agencies.
- i. Vessel waste pump-out facilities with adequate capacity to serve the needs of all boaters in HMA should be maintained in the HMA. All new and expanded marina facilities providing additional boat slips should provide on-site vessel-waste pump-out facilities or demonstrate that available pump-out capacity exists elsewhere in the HMA to accommodate their needs.
- j. In order to minimize use of marine sanitation devices in the HMA, all new and expanded marina facilities should be required to provide adequate restroom facilities for marina users.
- k. The Town should evaluate the feasibility of providing public vessel-waste pump-out facilities in coordination with Town boating facilities.
- l. To the extent possible, the Town should coordinate water quality monitoring and the formulation of pollution abatement measures with the towns of Waterford and Old Lyme. Initiatives to improve water quality in the HMA that are planned and implemented on a watershed-wide basis in coordination with the Niantic River Wa-

tershed Committee and other towns with jurisdictions in the Niantic River watershed and other coastal watersheds draining into the HMA should be encouraged and supported. Implementation of the water quality initiatives contained in the Niantic River Watershed Protection Plan endorsed by the Town of East Lyme should be encouraged and supported.

5. Scenic Quality

- a. The design and review of future development proposals in the Harbor Management Area should take into consideration cumulative impacts on coastal resources and the capability of coastal resources to support development without significant disruption of the natural environment, including existing scenic quality, in the HMA. Adverse visual impacts that may be caused by development on, in, or contiguous to the HMA and that may affect the character, quality, or public enjoyment of the HMA should be avoided.

HARBOR ADMINISTRATION POLICIES

1. Harbor Management Area Boundaries

- a. East Lyme's Harbor Management Area for the purpose of the East Lyme Harbor Management Plan and to designate the area subject to the jurisdiction of the Harbor Management Commission should include the navigable waters within the territorial limits of the Town of East Lyme waterward of the Mean High Water line and bounded on the south in Long Island Sound by an imaginary line extending from Hatchett's Point easterly to the southerly end of Black Point and thence easterly to Millstone Point, on the west by the East Lyme/Old Lyme town boundary, and on the east by the East Lyme/Waterford town boundary.

2. Jurisdiction and Responsibilities of the Harbor Management Commission

- a. The jurisdiction of the East Lyme Management Commission shall be as established in the East Lyme Harbor Management Ordinance and shall include all of the navigable waters of the Town as described in the Town Code and East Lyme Harbor Management Plan. The HMC shall exercise all of the powers and duties granted to municipal harbor management commissions through Sections 22a-113k through 22a-113t of the Connecticut General Statutes and specified in the Harbor Management Ordinance, including responsibilities for preparing the Harbor Management Plan. In addition, as authorized by Article I, Sec. 2b of the Harbor Management Ordinance, the HMC shall function as the East Lyme Shellfish Commission and shall have charge of all shellfisheries and shellfish grounds lying in the Town of East Lyme not granted to the Waterford-East Lyme Shellfish Commission by the Connecticut General Statutes, and not under the jurisdiction of the commissioner of agriculture, including all rivers, inland waters and flats adjacent to all beaches and waters within the limits and marine bounds (below the Mean High Water line) of the Town.

3. Implementation and Enforcement of the Harbor Management Plan

- a. The Harbor Management Ordinance and other applicable sections of the East Lyme Town Code should be reviewed and amended, as necessary, to help ensure continued boating and navigation safety in the Harbor Management Area and effective implementation and enforcement of the goals, policies, and management guidelines contained in the Harbor Management Plan.
- b. Through implementation of the Harbor Management Plan, the Town of East Lyme and the State of Connecticut Harbor Master for East Lyme should maintain an active and ongoing role in the management and regulation of activities in the HMA in coordination with state and federal agencies, including, but not limited to, the Connecticut Department of Energy and Environmental Protection and the U.S. Army Corps of Engineers.

4. Review of Proposals Affecting the Harbor Management Area

- a. A “Harbor Management Consistency Review” process should be carried out by the Harbor Management Commission to ensure effective implementation of the Harbor Management Plan and to provide coordinated, efficient, and comprehensive local review of proposed projects affecting use and activities on, in or contiguous to the Harbor Management Area. (See Chapter Six: Responsibilities and Recommendations for Plan Implementation and the Harbor Management Ordinance.)
- b. In accordance with Sec. 22a-113p of the Connecticut General Statutes and East Lyme Harbor Management Ordinance, the Harbor Management Commission may review, for consistency with the Plan, specific development proposals affecting real property on, in, or contiguous to the Harbor Management Area as submitted to, or proposed by Town agencies including, but not limited to, the following agencies (see Waterfront Use and Development Policies):

Planning Commission
Zoning Commission
Zoning Board of Appeals
Shellfish Commission
Department of Health
Department of Public Works
Parks and Recreation Commission
Conservation of Natural Resources Commission
Inland Wetland Agency
Economic Development Commission

- c. The HMC may review for consistency with the Plan: 1) all development proposals subject to the municipal process of Coastal Site Plan Review and affecting real property on, in, or contiguous to the HMA; 2) all proposed uses or activities occurring waterward of the Coastal Jurisdiction line; and 3) all proposed revisions or

amendments to Town plans, regulations, or ordinances affecting real property on, in, or contiguous to the HMA.

- d. As required by Sec. 22a-113p of the Connecticut General Statutes, the referring agencies listed in item 3.b above shall notify the HMC of any proposals subject to the Harbor Management Consistency Review Process at least 35 days prior to the commencement of any hearings thereon or, where no hearing is held, at least 35 days prior to the taking of any final action on the proposal.
- e. In accordance with the schedule established in Sec. 22a-113p of the Connecticut General Statutes and the Harbor Management Ordinance, the HMC may determine the consistency of proposed projects with the Plan and make recommendations to the appropriate Town agency or commission within 35 days of receipt of the proposal from the referring agency. If no comment regarding the consistency of the proposed project is made by the HMC within 35 days, the proposal will be assumed to be consistent with the Plan. In accordance with Sec. 22a-113p of the Connecticut General Statutes and the Harbor Management Ordinance, a 2/3 vote of the referring Town agency will be required to approve a proposed project that has not received a favorable recommendation from the HMC.
- f. Applications for the state and/or federal approvals needed to conduct work affecting property on, in, or contiguous to the HMA should be reviewed for consistency with the Plan, including applications submitted to the Connecticut Department of Energy and Environmental Protection and/or U.S. Army Corps of Engineers and applications submitted to the Connecticut Department of Agriculture/Bureau of Aquaculture for aquaculture activities in the HMA. The HMC may review proposed projects for consistency with the Plan and transmit its findings and recommendations to the appropriate state and/or federal agency in accordance with all applicable laws, regulations, ordinances, and other duly established requirements and prior to any final decision by those agencies. Pursuant to Sec. 22a-113n of the Connecticut General Statutes, a recommendation pursuant to the content of the Plan with respect to a proposed project shall be binding on any official of the State when making regulatory decisions or undertaking or sponsoring development affecting the HMA, unless such official shows cause why a different action should be taken.
- g. Application plans for the following types of projects should be prepared by a registered professional engineer licensed in the State of Connecticut: marinas and marine commercial facilities; erosion control structures; fill areas; dredged areas; and any proposed regulated work that will change tidal elevation locations or affect property boundaries.
- h. It is the responsibility of all applicants for DEEP LWRD permits and other DEEP LWRD authorizations to comply with all duly established application requirements, including, but not limited to, any requirements for submitting project plans and other information to the HMC and otherwise properly conferring with the HMC

prior to, and/or subsequent to, submitting an application to the DEEP LWRD. Project plans and other information submitted by the applicant to the HMC must be deemed by the HMC to be sufficiently accurate, complete, and otherwise adequate for the purpose of the HMC's review of that information.

- i. When reviewing a proposal or application for consistency with the Plan, the HMC should consider if there is any enforcement action pending with Town, state, or federal agencies for violations of environmental laws or other laws at the site of the proposed work and/or associated with the work for which the authorization is being sought. The HMC may defer its review of a proposal or application involving a site associated with a pending enforcement action until such time as that action has been concluded. The HMC may provide recommendations to appropriate Town, state, or federal regulatory agencies concerning the elimination of any unauthorized encroachments in HMA. Deferral of review by the HMC pending resolution of an enforcement action shall not alter the review periods of the appropriate Town, state, or federal agencies as established by applicable laws, regulations, and ordinances.
- j. The HMC should serve in an advisory capacity on all Town-supported planning and development initiatives affecting the HMA.
- k. It is the responsibility of project applicants to provide the information necessary for the HMC to adequately assess the potential impacts of proposed development projects on coastal resources and the consistency of such proposals with the Harbor Management Plan. The information required should be reasonable in scope and should be in balance with the size, scope, and potential negative impacts of the proposal.
- l. The HMC may evaluate the feasibility of obtaining a General Permit from the U.S. Army Corps of Engineers applicable to specified types of proposed coastal structures and activities in the HMA. This General Permit should only be accepted by the HMC if it is shown that such a permit will facilitate and accelerate effective review and approval of the specified structures and activities.

5. Duties of the Harbor Master

- a. In accordance with Sec. 15-1 of the Connecticut General Statutes, the State of Connecticut Harbor Master for East Lyme shall exercise his or her duties in a manner consistent with the Harbor Management Plan and work cooperatively with the Harbor Management Commission to achieve effective compliance with harbor management rules, regulations, and ordinances for the Harbor Management Area and implementation of the Plan. The Harbor Master's responsibility in this regard shall be carried out in a manner consistent with all applicable local, state, and federal laws, statutes, regulations, and ordinances including, but not limited to, Sec. 15-154 of the Connecticut General Statutes.

- b. In accordance with Sec. 22a-113k of the Connecticut General Statutes, the Harbor Master shall be a nonvoting, ex-officio member of the HMC.
- c. As authorized by Sec. 15-1 of the Connecticut General Statutes, the Harbor Master shall be responsible for the general care and supervision of the navigable waterways within the boundaries of the HMA and shall exercise his or her duties in a manner consistent with the Plan. The Harbor Master shall be responsible for the safe and efficient operation of the HMA in accordance with the provisions of the Connecticut General Statutes.
- d. In accordance with Sec. 15-1 of the Connecticut General Statutes, the Harbor Master shall be appointed by the Governor of Connecticut from a list of at least three candidates provided by the HMC.
- e. In accordance with Sec. 15-154 of the Connecticut General Statutes and other applicable laws, statutes, regulations, and ordinances, the Harbor Master should act in coordination with the East Lyme Police Department, Connecticut Department of Energy and Environmental Protection, and other law enforcement agencies as necessary and appropriate to achieve effective enforcement of state and local boating laws, regulations, and ordinances in the HMA. The Harbor Master's responsibility in this regard shall be carried out in a manner consistent with all applicable local, state, and federal laws, statutes, regulations, and ordinances including, but not limited to, Sec. 15-154 of the Connecticut General Statutes.
- f. The Harbor Master should work cooperatively with the Harbor Management Commission, including any persons assigned to assist the Commission to carry out its responsibilities, to enforce state and local boating laws and ordinances in accordance with state statutes. The Harbor Master should also work cooperatively with and assist the HMC Commission in implementing other provisions of the Harbor Management Plan and Town Ordinance for implementing the approved Plan.
- g. The HMC may appoint a Dock Master, Harbor Manager, or other person to assist the HMC and the Harbor Master with implementation of the Plan and Ordinance.

6. Administration of Mooring Permits

- a. To provide for adequate navigation access for recreational and commercial vessels, for the safety of persons and property, for the optimum beneficial use of the Harbor Management Area, and for protection of environmental quality, no boat mooring location in the HMA shall be used without the approval of the State of Connecticut Harbor Master for East Lyme. The Harbor Master shall issue a permit for each approved mooring location or area.
- b. Standardized procedures for mooring permit application and issuance should be maintained by the Harbor Management Commission in coordination with the Harbor Master. The public should be informed of these procedures through appropriate

notices and other means. An orderly waiting list and assignment procedure should be maintained for all new applicants for mooring permits. Standardized mooring permit record keeping procedures to allow compilation of, and easy and complete access to, all pertinent information regarding mooring use and allocation in the HMA should also be maintained.

7. Financial Management

- a. Adequate funds should be obtained and allocated to properly manage the Harbor Management Area and public facilities on, in, or contiguous to the HMA in the public interest. The Town should actively pursue available governmental and private grants and other appropriate sources of funds to help defray the costs of harbor management and improvement projects in the public interest.
- b. In accordance with Sec. 22a-113s of the Connecticut General Statutes, the HMC should propose a fee schedule for mooring or anchorage permits and other activities within the scope of the Harbor Management Plan. Such fees should be commensurate with services provided by the Town and the Harbor Master, and all fees collected should be dedicated for the maintenance and improvement of the HMA for the public and for personnel and equipment directly related to the function of the Commission and the Harbor Master. When considering potential fees for activities within the scope of the Plan, the HMC may give consideration to the feasibility of establishing dockage and berthing fees to the extent that such fees would make a significant contribution to maintenance and improvement of the HMA for the public and provide for equitable distribution of harbor management fees among all users of the HMA.
- c. An annual operating budget for harbor management should be established to include Commission activities and the administrative and maintenance costs of implementing the Plan.
- d. In accordance with Sec. 22a-113s of the Connecticut General Statutes, the East Lyme Harbor Management Fund shall be maintained to receive all mooring permit fees and other funds allocated for harbor management purposes. Monies from the Harbor Management Fund shall be disbursed by the HMC only for purposes directly associated with management and improvement of the HMA for the public, including implementation of the Plan, and for expenses for personnel and equipment directly related to the function of the HMC and the Harbor Master or Deputy Harbor Master.
- e. To the extent consistent with state laws and policies, fines for violations of Town and state laws, regulations, and ordinances concerning use of the HMA, including but not limited to rules and regulations adopted by the HMC, should be deposited into the East Lyme Harbor Management Fund. To the extent consistent with state laws and policies, including but not limited to the Connecticut Coastal Management Act, statutory restrictions concerning civil penalties, and the DEEP's enforcement

and Supplemental Environmental Project policies, civil penalties assessed by the DEEP for violations of state regulatory programs in the HMA may be deposited into the Harbor Management Fund and used to fund beneficial projects for environmental enhancement and other improvements for the public in the HMA.

8. Developing and Maintaining Public Support and Awareness of Plan Provisions

- a. The presentation and discussion of all relevant public concerns regarding the Harbor Management Area and Harbor Management Plan should be encouraged and considered by the Harbor Management Commission, including concerns expressed by Town residents, waterfront property and business owners, public officials, boaters, and other users of the HMA, interested organizations, and the general public.
- b. The HMC should encourage and support special programs and events to stimulate public interest and community involvement in matters pertaining to the HMA and Plan.

9. Amendments to the Harbor Management Plan and Ordinance

- a. The Harbor Management Plan and applicable Town ordinances should be updated and amended as necessary to respond to changing circumstances and conditions affecting the Harbor Management Area.
- b. To ensure continued adherence to the Plan as well as to identify needed amendments or clarifications, the Harbor Management Commission may conduct an annual review of the Plan and the status of Plan implementation.
- c. The same process required for state approval and Town adoption of the Plan as set forth in the General Statutes (review by the U.S. Army Corps of Engineers, approval by the State of Connecticut, and adoption by action of the Board of Selectmen following a public hearing) will be required to amend or revise the adopted Plan.⁷

⁷ The procedure for approval and adoption of a municipal harbor management plan is set forth in Sec. 22a-113m of the General Statutes. The East Lyme Harbor Management Plan was approved by the state commissioners of Environmental Protection and Transportation and reviewed by the U.S. Army Corps of Engineers prior to adoption of the Plan by the East Lyme Board of Selectmen in 1994. State approval of Plan amendments must follow the same procedure required for Plan adoption in 1994 except that Plan approval is now required by the Connecticut Port Authority instead of the Commissioner of Transportation.

10. Coordinating Harbor Management with Other Municipalities

- a. The Harbor Management Commission should coordinate its planning and management activities with the Waterford Harbor Management Commission or other appropriate body of the Town of Waterford to ensure that consistent management policies and guidelines are established for the East Lyme and Waterford sections of the Niantic River.
- b. The Police Departments of East Lyme and Waterford should coordinate their marine patrols within their joint jurisdiction to ensure maximum patrol coverage and the most effective and efficient use of available Town funds for the protection of public health, safety, and welfare.
- c. To the extent necessary and practical to address issues of common concern, the Town should coordinate harbor management initiatives with other municipalities with jurisdictions adjoining or otherwise affecting the Harbor Management Area, including the towns with jurisdictions in the watersheds that drain into the HMA, including Waterford, Montville, Salem, and Old Lyme.

11. Coordination Among Town Agencies for Harbor Management

- a. All Town agencies with authorities and responsibilities affecting the Harbor Management Area, including but not limited to the Harbor Management Commission, Planning Commission, Zoning Commission, Zoning Board of Appeals, Shellfish Commission, Department of Health, Department of Public Works, Parks and Recreation Commission, Conservation Commission, Economic Development Commission, Water and Sewer Commission, Police Department, and Fire Department, should carry out their harbor management-related responsibilities in the most coordinated manner, consistent with the provisions of the Harbor Management Plan.
- b. Implementation of all Town-adopted and -endorsed plans and programs affecting the HMA, including the Harbor Management Plan, the East Lyme Plan of Conservation and Development which includes the land use provisions of the Town's Municipal Coastal Program, and Niantic River Watershed Protection Plan, should be carried out in the most coordinated manner possible, emphasizing consistent objectives related to future beneficial use of the HMA and protection of environmental quality associated with the HMA. The Harbor Management Plan and Plan of Conservation and Development should be complementary and consistent documents and should serve as the Town's principal guides for land and water use on, in, or contiguous to the HMA.

12. Coordination with State and Federal Authorities

- a. State and federal agencies with authorities and responsibilities affecting the Harbor Management Area, including but not limited to the Department of Energy and Environmental Protection, Department of Transportation, the U.S. Army Corps of Engineers, and the U.S. Coast Guard, should carry out their responsibilities affecting the HMA in the most coordinated manner, consistent with the provisions of the Harbor Management Plan.
- b. State and federal governmental agencies with authorities and responsibilities affecting the HMA should work cooperatively with the Harbor Management Commission and Harbor Master to ensure effective implementation of the Plan.
- c. Actions by state and federal governmental agencies should, to the extent possible in accordance with state and federal law, be consistent with recommendations made by the HMC pursuant to the Plan. In accordance with Sec. 22a-113n of the Connecticut General Statutes, any recommendation pursuant to the content of the Plan with respect to a proposed project shall be binding on any official of the state when making regulatory decisions or undertaking or sponsoring development affecting the HMA, unless such official shows cause why a different action should be taken.

6

Water-Use Plans and Harbor Management Guidelines

The Harbor Management Commission shall implement the East Lyme Harbor Management Plan as adopted by the Harbor Management Commission and Board of Selectmen effective as of May 4, 1994, and approved by the State of Connecticut in accordance with Sec. 22a-113m of the Connecticut General Statutes. The Commission shall provide for review of the Plan and shall make any additions and/or modifications to the Plan that may be deemed appropriate...

From Article II, Sec. 9 of the Ordinances of the Town of East Lyme

This chapter includes the 2019 amendments to the Town of East Lyme's water-use plans and guidelines established in Chapter Five of the *East Lyme Harbor Management Plan* adopted by the Board of Selectmen in 1994.



TOWN OF EAST LYME
HARBOR MANAGEMENT PLAN
MARCH 2019

WATER-USE PLANS AND HARBOR MANAGEMENT GUIDELINES

This chapter presents water-use plans and harbor management guidelines for the following harbor management sub-areas within the East Lyme Harbor Management Area (HMA).

- Niantic River Harbor Management Sub-Area -
- The Bar and Bridge Harbor Management Sub-Area -
- Niantic Bay Harbor Management Sub-Area -
- Pattagansett-Rocky Neck Harbor Management Sub-Area -

Within each of these harbor management sub-areas, smaller “planning units” are identified. The water-use plans and harbor management guidelines represent the application, within each harbor management sub-area and planning unit, of the Town’s harbor management goals, objectives, and policies set forth in chapters four and five of the *East Lyme Harbor Management Plan* (the Plan). Along with the Plan’s other provisions, the water-use plans and guidelines provide a guiding framework for decisions and initiatives by the East Lyme Harbor Management Commission (HMC) and other agencies with programs or authorities that affect the East Lyme HMA.

NIANTIC RIVER HARBOR MANAGEMENT SUB-AREA

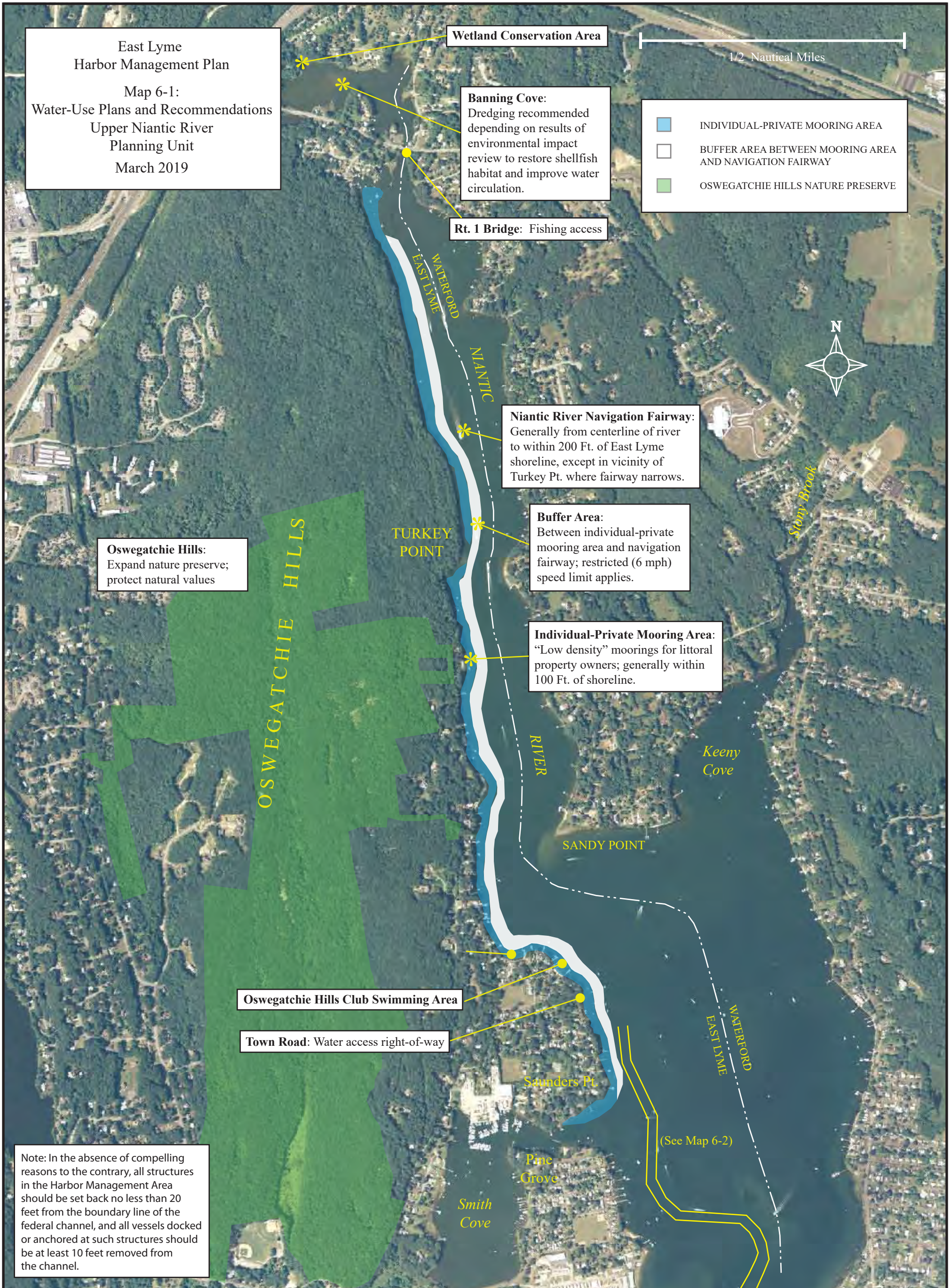
The Niantic River Harbor Management Sub-Area includes that part of the Niantic River within the jurisdiction of the Town of East Lyme north of the “Bar” at the mouth of the river, extending upstream to include Smith Cove as well as Banning Cove north of Route 1.

Within this harbor management sub-area, three “planning units” are identified for the purpose of applying water-use plans and harbor management guidelines. These are the Upper Niantic River, Smith Cove, and Lower Niantic River planning units.

Effective harbor management in these planning units should be accomplished, in part, through implementation of the conceptual water-use plans shown on Maps 6-1 and 6-2. These plans are consistent with the Town goals, objectives, and policies for harbor management presented in chapters four and five. Components of these water use plans, along with other harbor management guidelines, are described below and on the following pages.

UPPER NIANTIC RIVER PLANNING UNIT

The Upper Niantic River Planning Unit includes the water and shoreline area extending from the northern limit of the federal navigation channel near Saunders Point upstream to the area known as Golden Spur. This planning unit is bounded on the west by the Oswegatchie Hill area and on the east by the East Lyme-Waterford town line along the centerline of the Niantic River. The following harbor management guidelines are established. (See Map 6-1.)



NOTE: Boundaries of Harbor Management Area, including the center line of the Niantic River, are shown for planning purposes only, not for regulatory or engineering purposes.
ORTHOPHOTOGRAPHY: 2010 National Agricultural Imagery Program (NAIP) provided by the Connecticut DEEP.

1. Mooring Areas

- a) The nearshore area along the East Lyme shoreline is suitable for low-density individual-private (non-commercial) moorings locations. Due to the lack of public water-access opportunities and the limited area available for mooring tackle placement, moorings locations in this area should be intended primarily for the use of shorefront property owners.
- b) All moorings tackle should be located within 100 feet of shore in order to maintain a 100-foot setback from the Upper Niantic River navigation fairway (see no. 2 below). (The 100-foot setback is necessary so that vessels traveling in the navigation fairway at greater than Slow-No-Wake speed will be in conformance with state and Town boating regulations and ordinances, including Sec. 15-121-B14 of the Regulations of Connecticut State Agencies (RCSA).¹ That section specifies that no person shall operate a motorboat at a speed to exceed Slow-No-Wake within 100 feet of shore, or of a dock, pier, float, or anchored or moored vessel, unless such motorboat is approaching such float, dock, or shore for the purpose of enabling a person engaged in water skiing to take off or land. In addition, under Sec. 5.a of the East Lyme Harbor Management Ordinance, vessels under power shall not exceed 6 mph within 200 feet of shore in the Upper Niantic River north of the federal navigation channel.)²

2. Upper Niantic River Navigation Fairway

- a) A navigation fairway to remain free of obstructions is herein designated in the upper Niantic River. This fairway extends from the northern terminus of the federal navigation channel to the head of navigation south of the Route 1 bridge at Golden Spur. (See Map 6-1.)
- b) The navigation fairway generally extends from the centerline of the Niantic River (the East Lyme/Waterford town line) to a distance of 200 feet from the East Lyme shoreline except in the Turkey Point area where the fairway extends to a distance of approximately 100 feet

¹ “Slow-No-Wake,” defined for the purpose of the state boating regulations, means that a vessel shall not produce more than a minimum wake and shall not attain speeds greater than 6 miles per hour over the ground unless a higher minimum speed is necessary to maintain steerageway when traveling with a strong current. In no case shall the wake produced by the vessel be such that it creates a danger or injury to persons, or will damage vessels or structures of any kind.

² Sec. 5a of the East Lyme Harbor Management Ordinance specifies that the operation of any vessel, including personal watercraft, within the East Lyme Harbor Management Area shall proceed in a manner which protects all persons and property from any damage caused by a wake, and that vessels under power shall not exceed a speed limit of 6 mph within specified areas. For the purpose of the Harbor Management Plan, the 6 mph speed limit established in the Harbor Management Ordinance is considered the equivalent of the “Slow-No-Wake” limit established for the purpose of the state boating regulations.

from shore in order to maintain adequate width for navigation in this most narrow part of the upper river.

- c) No mooring tackle or other in-water structures should be placed within 100 feet of the navigation fairway to ensure that vessels traveling in the navigation fairway at speeds greater than Slow-No-Wake are in conformance with RCSA Sec. 15-121-B14 and Sec. 5.a of the East Lyme Harbor Management Ordinance.³
- d) A buffer area generally 100 feet wide should be maintained between the navigation fairway and the individual-private mooring area. Vessel speed within this buffer area should be restricted to Slow-No-Wake in accordance with RCSA Sec. 15-121-B14(a) and Sec. 5.a of the East Lyme Harbor Management Ordinance.
- e) To achieve inter-municipal consistency and coordination for harbor management in the Upper Niantic River, the Town of Waterford should be encouraged to designate both a navigation fairway and mooring area on the Waterford side of the Niantic River centerline using the same criteria described above.

3. Water Access Opportunities

- a) The Town should pursue any feasible opportunities that may arise in the future to provide public water access to the Upper Niantic River consistent with Town goals to protect coastal resources and scenic quality, including appropriate water access areas incorporated (in accordance with the policies of the Connecticut Coastal Management Act and the East Lyme Plan of Conservation and Development) into any future private waterfront development that may be duly approved on the Oswegatchie Hill waterfront. (See No. 6(e) on page 6-6.)
- b) The existing water access right-of-ways extending to the Niantic River should be reserved for future enhancement and use consistent with ownership of the right-of-way, traditional neighborhood uses, existing neighborhood character, and applicable land-use regulations.
- c) Demarcation of all private swimming areas should be properly maintained in accordance with any necessary Town and state approvals.

³ RCSA Sec. 15-121-B14(a) specifies that no person shall operate a motorboat at a speed in excess of Slow-No-Wake within one hundred feet of shore, or of a dock, pier, float, or anchored or moored vessel, unless such motorboat is approaching such float, dock or shore for the purpose of enabling a person engaged in waterskiing to take off or land. Sec. 5.a of the East Lyme Harbor Management Ordinance specifies, among other restrictions, that no vessel under power shall exceed a speed limit of 6 mph within 100 feet of shore or any dock, pier, float, or anchored or moored vessel in the HMA.

4. Protection of Coastal Resources and Water Quality

- a) Coastal resources, including but not limited to, designated tidal wetlands in Banning Cove should be preserved.
- b) Town efforts to avoid water pollution and improve water quality in the Niantic River and Latimer Brook should include measures to: reduce point and nonpoint sources of pollution, including urban and agricultural runoff, septic waste, and the disposal of litter and all other wastes; effectively enforce vessel waste no-discharge prohibitions; and otherwise implement the water quality initiatives contained in the Niantic River Watershed Protection Plan.

5. Dredging

- a) The Town should support dredging of marine sediments in Banning Cove if it is determined, based on best available scientific information, that such dredging can be carried out in a cost-effective manner expected to have beneficial impacts on water circulation and shellfish habitat while not adversely affecting coastal resources and otherwise be consistent with the goals and policies of the Connecticut Coastal Management Act.
- b) The Town should support future private maintenance dredging as necessary to maintain safe and efficient navigation access in the upper Niantic River navigation fairway if such dredging can be carried out in a manner that does not cause significant adverse environmental impacts. Planning to maintain a navigable depth of at least three feet at mean low water should be encouraged and supported.

6. Oswegatchie Hill Waterfront

- a) The Town should implement, through appropriate zoning and other regulations, the policies of the East Lyme Coastal Area Development Plan and 2009 Plan of Conservation and Development (POCD) to protect the natural and cultural values of the natural environment of the Oswegatchie Hill area, including, but not limited to, values related to fish and wildlife habitat, water quality, and scenic quality.
- b) Any future development in the Oswegatchie Hill area should be of a density and type consistent with the capacity of coastal land and water resources in the area to accommodate that development without significant adverse impacts on environmental quality and the natural and cultural values of coastal resources.
- c) Conservation of additional land in the Oswegatchie Hill area should be encouraged and supported through public acquisition and/or other appropriate means provided such conservation would be in accordance with a comprehensive Town plan for natural resource conservation, watershed management, and outdoor recreation, and any land so conserved would be maintained as permanent Town open space.

- d) The Town should encourage use of private initiatives, including conservation easements and other appropriate measures, to protect sensitive natural resources and undeveloped lands with significant natural and cultural resource values in the Oswegatchie Hill area.
- e) Through its Coastal Site Plan Review Process, the Town should require that any potentially approvable proposals to develop the Oswegatchie Hill waterfront provide for suitable public water-access facilities in accordance with the policies of the Connecticut Coastal Management Act and the East Lyme Municipal Coastal Program. Through the Coastal Site Plan Review Process and Harbor Management Consistency Review Process, the Town should identify the types and scale of public water-access facilities most desirable and suitable for this area.
- f) Continued beneficial use and conservation of the Oswegatchie Hills Nature Preserve is encouraged and supported, along with opportunities for expansion of the preserve for the purpose of protecting coastal resources and providing opportunities for hiking, nature study, and enjoyment of scenic views of the Niantic River and watershed.

7. Waterfront Structures

- a) Consistent with the littoral rights of waterfront property owners, private docks and piers should not have a significant adverse impact on coastal resources and beneficial water activities in the upper Niantic River. All structures should be of the minimal length necessary to reach navigable water and should be designed to have only minimal impacts on intertidal resources and traditional water uses.

8. Commercial Development at Golden Spur

- a) Future development proposals for the commercially zoned area adjacent to Banning Cove should be carefully reviewed by the Town to ensure that any future development of this area does not cause significant adverse impacts on coastal resources, including but not limited to, adverse impacts on water quality.

9. Water Skiing

- a) In accordance with state and local boating laws, regulations, and ordinances, water skiing in the upper Niantic River is restricted to the Upper Niantic River Navigation Fairway (see No. 2 on page 6-3) and prohibited within 200 feet of shore.

10. Harbor Management Coordination with the Town of Waterford

- a) To the extent practical, the Town should coordinate water and waterfront planning and management activities, including, but not limited to, water quality monitoring and the formulation of pollution abatement measures, with the Town of Waterford.

- b) The Town of Waterford should be encouraged to designate a navigation fairway in Waterford's portion of the Upper Niantic River, complementing the East Lyme fairway and thereby providing a consistent approach to harbor management in the upper Niantic River.
- c) The police departments of East Lyme and Waterford should continue to cooperate as necessary in carrying out law enforcement and emergency management activities in the Upper Niantic River.

11. Public Safety

- a) Vessel operation at speed greater than Slow-No-Wake should be restricted to the designated navigation fairway. The Town should encourage and support strict and effective enforcement of applicable boating laws, regulations, and ordinances to avoid and discourage reckless operation.⁴
- b) Except by specific authorization, or in the case of emergency, no vessel should enter into any private swimming area as designated by floating markers placed in conformance with appropriate permits from the Connecticut Department of Energy and Environmental Protection (DEEP).

12. Shorefront Neighborhood Protection

- a) The traditional character and beneficial quality of life associated with shorefront residential areas in this planning unit should be protected. All boating uses and other water access activities should be carried out in a manner that does not adversely affect the shorefront residential areas.

SMITH COVE PLANNING UNIT

This planning unit includes Smith Cove, the navigation channel connecting the Cove with the Niantic River, and the adjacent shoreline. The following harbor management guidelines are established. (See Map 6-2.)

1. Mooring Areas

- a) Subject to constraints imposed by water quality concerns, water depths, bottom conditions, coastal resources, limited surface water area, and water access areas, Smith Cove is suitable for individual-private moorings locations as well as commercial moorings locations. Consistent with traditional boating uses, the cove should be considered as a mooring area for boats in the range of 14 to 29 ft. in length with draft of less than three feet. In addition, and also subject to the above constraints, moorings locations may be established in the "individual-private mooring area" along the Pine Grove shoreline. (The general location

⁴ "Reckless operation," defined for the purpose of the state boating regulations, is the failure to exercise the degree of care necessary to prevent endangering another person or their property.

of this mooring area is shown on the water-use plan depicted on see Map 6-2.) Due to the lack of water access opportunities and the limited area available for mooring tackle placement, moorings locations in the nearshore area of Pine Grove should be intended primarily for use by residents of the Pine Grove area.

- b) Determination of the precise number of all mooring locations, size of moored vessels, and specific locations for placement of all moorings tackle in Smith Cove should be made by the Harbor Master in consultation with the Harbor Management Commission and be subject to the constraints noted in 1(a) above. In the absence of compelling reasons to the contrary, the total number of moorings locations permitted in Smith Cove should be consistent with the traditional number of moorings locations. Additional mooring locations may be permitted if the Harbor Master and HMC determine that an increase in moorings locations will not result in significant adverse impacts on coastal resources, boating safety, and the existing beneficial character of waterfront residential areas. A sufficient water area free of mooring tackle should be maintained in the cove at all times to provide an anchoring area for storm refuge.
- c) To ensure the most orderly and efficient distribution of moorings locations and to maximize the utility of available mooring space in the Cove, the Harbor Master and HMC may establish a mooring grid plan for the placement of moorings tackle in the Cove. This grid plan should be implemented by the Harbor Master if and when the need may arise.
- d) Appropriate navigation fairways may be designated in Smith Cove to ensure free and safe passage of vessels through any expanded or redesigned mooring area.
- e) All mooring pole systems must comply with applicable requirements for the mooring and anchoring of vessels in the Harbor Management Area, including duly established Town requirements and the permit requirements of the Connecticut Department of Energy and Environmental Protection. Existing mooring pole systems predating the effective date of the Harbor Management Plan may be maintained provided those systems and any vessels attached thereto are determined by the Harbor Management Commission to cause no significant adverse impacts on coastal resources, public navigation, and the littoral rights of waterfront property owners.

2. Water Access Opportunities

- a) The Town should pursue any feasible opportunities that may arise in the future to increase public access to Smith Cove, including any opportunities for acquisition or use of state-owned land at the Camp Niantic Army National Guard Training Site (Camp Niantic) on the south shore of the Cove. When considering water access opportunities in the Camp Niantic Area, it should be recognized that: 1) the Connecticut Military Department asserted in 2016 that public access through the Military Department-owned property to the Harbor Management Area is incompatible at this time with current and anticipated future military operations; 2) the Mean High Water line marks the boundary between Military Department-owned property and the Public Trust area which is coterminous with the HMA; 3) as

East Lyme
Harbor Management Plan
Map 6-2:
Water-Use Plans and Recommendations
Smith Cove and Lower Niantic
River Planning Units
March 2019

(See Map 6-1)

Town Rd.:
Water access
right-of-way

Individual-Private Mooring
Area: "Low density" moorings
for littoral property owners

Individual-Private
Mooring Area

SAUNDERS POINT

Three Belles Marina

Tighe's
Marina

Laurel Street:
Water access right-of-way

PINE GROVE

High Street:
Water access right-of-way

South Street:
Water access right-of-way

Smith Cove Channel:
Privately-maintained

Scallop
Resource Area:
No moorings

Individual-Private Mooring
Area: "Low density" moorings
for littoral property owners

Scallop
Resource Area:
No moorings

CAMP NIANTIC

Smith St.:
Water access
right-of-way

Scallop Resource
Area: Limited small
boat mooring

Mooring Area for Larger Boats
All moored boats must be at least
10 ft. removed (set back) from the
federal channel.

LOWER NIANTIC RIVER

NIANTIC

State
Launching
Ramp

Route 156 Bridge

Black Hawk
Fishing Boat

Railroad Bridge

"MARINE COMMERCIAL AREA":
(See Map 6-3)

"BAR AREA":
(See Map 6-3)

NIANTIC BAY

(See Map 6-4)

- SCALLOP RESOURCE AREA
- INDIVIDUAL-PRIVATE MOORING AREA
("Low Density" Moorings for Shorefront Residents)
- PUBLIC MOORING AREA
- FEDERAL NAVIGATION CHANNEL

Smith Cove:
Dredging recommended
depending on results of
environmental impact
review to restore shellfish
habitat and improve water
circulation; area shown as
"possible future dredging
area" to also accommodate
individual-private and
commercial moorings.

Note: In the absence of compelling
reasons to the contrary, all structures
in the Harbor Management Area
should be set back no less than 20
feet from the boundary line of the
Federal channel, and all vessels docked
or anchored at such structures should
be at least 10 feet removed from
the channel.

900 ft.



NOTE: Boundaries of Federal Navigation Channel are shown for planning purposes only, not for regulatory or engineering purposes.
ORTHOPHOTOGRAPHY: 2010 National Agricultural Imagery Program (NAIP) provided by the Connecticut DEEP.

a condition of approval of the camp's master plan in 2010, DEEP specified that if the current force protection level and operational security needs are in the future adjusted to previous, less restrictive levels, then public access would again be permitted on the site in accordance with the Connecticut Army National Guard (CTARNG) Public Access Policy previously approved by DEEP; and 4) while the Military Department may exclude the public from Military Department-owned property, absent formal designation pursuant to applicable state and federal laws and regulations of a restricted area for security purposes, the Military Department may not lawfully exclude the public from navigation and other normal rights of the general public in the Public Trust area in Smith Cove adjoining and in the vicinity of Camp Niantic.

- b) The existing water access right-of-way to the north of Laurel Street (extending toward the Smith Cove channel and shown as Town-owned on Planning Department maps) and the water access right-of-way at the extension of High Street (extending into Smith Cove) should be reserved for future enhancement and public use consistent with ownership of the right-of-way, traditional neighborhood uses, existing neighborhood character, and applicable land-use regulations.

3. Smith Cove Channel

- a) Non-federal maintenance dredging of the Smith Cove channel in a cost-effective, environmentally sound manner as necessary to ensure continued safe and efficient navigation access between Smith Cove and the Niantic River should be encouraged and supported.
- b) Docks, piers, and other in-water structures, including mooring poles, should be set back from the channel boundaries a sufficient distance so as not to interfere with the safe and efficient navigation of vessels utilizing the Smith Cove channel.
- c) Private, Town-maintained aids to navigation should be appropriate for marking the Smith Cove channel.

4. Protection of Coastal Resources and Water Quality

- a) All intertidal resources (including intertidal flats and the tidal wetlands near Pine Grove Road) and other coastal resources in this planning unit should be preserved.
- b) The Town should pursue available measures to avoid water pollution in the Cove to enhance environmental quality and contribute to the restoration of degraded shellfish resources. Town efforts to avoid water pollution in the Cove should include measures to reduce point and non-point sources of pollution and any sewage discharges from boats moored in the Cove.

5. Dredging of Smith Cove

- a) Dredging of marine sediment in the Cove to support recreational boating activities and restore degraded shellfish habitat should be encouraged and supported if it is determined, based on best available scientific information, that such dredging can be carried out in a cost-effective manner expected to have beneficial impacts on water circulation and shellfish habitat, while not adversely affecting coastal resources and otherwise be consistent with the goals and policies of the Connecticut Coastal Management Act.

6. Water-Dependent Uses

- a) The Town should encourage and support continued operation of a commercial boatyard/marina facility on Smith Cove. Any future development activities that may affect established water-dependent uses, including existing marina and/or boatyard facilities, should not result in significant a reduction of currently available recreational boating services, including, but not limited to, boat maintenance, repair, berthing, and storage services of local and/or regional significance and for which there is a reasonable demand.

7. Shellfish Management

- a) Any duly established shellfish management plan addressing the Smith Cove area should include recommendations and measures, based on best available scientific information, for restoring degraded shellfish habitat

8. Shorefront Neighborhood Protection

- a) The traditional character and beneficial quality of life associated with shorefront residential areas in this planning unit should be protected. All boating uses and other water access activities should be carried out in a manner that does not adversely affect the shorefront residential areas.

LOWER NANTIC RIVER PLANNING UNIT

The Lower Niantic River Planning Unit is defined by the water and shoreline area within the jurisdiction of the Town of East Lyme south of the Saunders Point area and north of the “Bar” at the mouth of the Niantic River. This planning unit includes the major part of the federal navigation channel in East Lyme; the nearshore areas adjacent to Saunders Point, Pine Grove, and Camp Niantic, the concentration of commercial marina facilities in the area known as the Marine Commercial Area north of the Bar; and the Town boat launching site at the foot of Grand Street. The following harbor management guidelines are established. (See Map 6-2.)

1. Mooring Areas

- a) The nearshore areas north of the Smith Cove channel in the Saunders Point area and south of the Smith Cove channel in the Pine Grove area are suitable for low-density individual-

private (non-commercial) moorings locations. Due to the lack of water access opportunities and the limited area available for mooring tackle placement, moorings locations in this area should be intended primarily for the use of shorefront property owners.

- b) All individual-private moorings locations in the Saunders Point and Pine Grove areas should be set back an appropriate distance from the federal navigation channel to ensure safe and efficient navigation.
- c) Individual-private moorings locations east of the federal channel in the Saunders Point area should be limited to a specific area (see “Saunders Point Mooring Area” shown on Map 6-2 that does not extend north of the upstream limit of the federal channel. All moorings locations in this area should be carefully managed to ensure that mooring use does not unreasonably restrict recreational fishing in this part of the Niantic River.
- d) Individual-private moorings locations as well as commercial rental moorings locations may be established under the direction of the Harbor Master in the lower Niantic River in specifically designated mooring areas adjacent to the federal channel. (The general location of this mooring area is shown on the water-use plan depicted on Map 6-2.) When managing mooring locations, it is recognized that the lower part of the Niantic River is an active fishing area for winter flounder, striped bass, summer flounder, and bluefish. It is also recognized that the lower Niantic River is a relatively small and shallow estuary and that if boating activities increases and available open water diminishes, significant navigation conflicts may develop. It is therefore necessary that all moorings locations in the lower River be carefully managed and limited to specifically designated areas to ensure that mooring use does not unreasonably restrict recreational fishing and other beneficial water activities nor contribute to boating congestion and other navigation issues in this part of the River. All vessels moored in the designated mooring areas adjacent to the federal channel in the lower Niantic River should be stationed so they are at least 10 feet removed (set back) from the nearest channel boundary at all times. This set-back distance may be increased by the Harbor Management Commission and Harbor Master as necessary to maintain safe and efficient operation of the Harbor Management Area.

The nearshore area north of the Marine Commercial Area in the vicinity of Smith Street is also suitable for limited small boat moorings locations that will not adversely affect scallop resources in this area.

- e) Determination of the precise number of all moorings locations, size of moored vessels, and specific locations for placement of all mooring tackle in the lower Niantic River should be made by the Harbor Master in consultation with the Harbor Management Commission and be based on consideration of: water depths, the capacity of the lower river to accommodate additional moorings locations without adverse effects on safe and efficient navigation and natural resources (including fishery resources); and the availability of suitable shoreline access sites to serve additional moorings locations without disturbing the existing quality of life and traditional character of shorefront residential neighborhoods and unduly infringing on the littoral rights of waterfront property owners. The general location of the mooring areas in the Lower Niantic River is shown on the water-use plan depicted on Map 6-2.

- f) To ensure the most orderly and efficient distribution of moorings locations and to maximize the utility of available mooring space, the Harbor Master and Harbor Management Commission may establish a mooring grid plan for the placement of moorings tackle in designated mooring areas. This grid plan should be implemented by the Harbor Master if and when the need may arise.
- g) Decisions concerning placement of moorings tackle in the lower Niantic River should be coordinated, as necessary, with the Town of Waterford, recognizing that final decisions are the responsibility of the East Lyme Harbor Master acting in a manner consistent with the East Lyme Harbor Management Plan.

2. Water Access Opportunities

- a) Access to commercial rental moorings locations should be accommodated only through commercial boatyard/marina facilities.
- b) The Town should pursue any feasible opportunities to provide increased public water access to the lower Niantic River, including any opportunities for increased access to the Niantic River through the Camp Niantic site. The Town may develop long-term objectives for possible future public, water-related use of all or a portion of the Camp Niantic site in the event that some or all of this site may become available for Town use and/or public acquisition in the future. When considering water access opportunities in the Camp Niantic Area, it should be recognized that: 1) the Connecticut Military Department asserted in 2016 that public access through the Military Department-owned property to the Harbor Management Area is incompatible at this time with current and anticipated future military operations; 2) the Mean High Water line marks the boundary between Military Department-owned property and the Public Trust area which is coterminous with the HMA; 3) as a condition of approval of the camp's master plan in 2010, DEEP specified that if the current force protection level and operational security needs are in the future adjusted to previous, less restrictive levels, then public access would again be permitted on the site in accordance with the CTARNG Public Access Policy previously approved by DEEP; and 4) while the Military Department may exclude the public from Military Department-owned property, absent formal designation pursuant to applicable state and federal laws and regulations of a restricted area for security purposes, the Military Department may not lawfully exclude the public from navigation and other normal rights of the general public in the Public Trust area in the Niantic River adjoining and in the vicinity of Camp Niantic.
- c) Duly approved, in-water informational markers may be placed by the Military Department near the Camp Niantic shoreline to notify the public that public access to the Camp Niantic property (landward of the MHW line) is prohibited. Such markers, absent formal designation pursuant to applicable state and federal laws and regulations of a restricted area for security purposes, may not be used to limit public navigation and other lawful uses of the Public Trust area.

- d) The existing water access right-of-ways extending to the Niantic River from Round Rock Road, Smith Street, and South Street should be reserved for future enhancement and use consistent with ownership of the right-of-way, traditional neighborhood uses, existing neighborhood character, and applicable land-use regulations. The general public should be informed, through appropriate signs and other means, that these areas are not public boat launching areas and that Town boat launching facilities are available at other locations, including Grand Street and on the Bar.

3. Transient Anchorage

- a) A specific water area north of the “Bar” and south of the federal channel should be reserved as a transient anchorage available on a first-come-first-served basis for visiting boaters. (See Map 6-2.)

4. Protection of Coastal Resources and Water Quality

- a) The priority use of all intertidal flats and other coastal resources in the lower Niantic River area should be preservation. Limited water-dependent uses and structures in intertidal areas may be considered if the impacts on coastal resources are minimal, acceptable pursuant to all regulatory requirements, including requirements set forth in the Connecticut Coastal Management Act, and no feasible alternative exists.
- b) Scallop resources, including scallop populations and habitat, should be protected and, to the extent feasible, enhanced. Moorings tackle should not be placed on significant scallop resource areas identified by the Waterford-East Lyme Shellfish Commission.
- c) Town efforts to avoid water pollution and improve water quality in the Niantic River should include measures to reduce point and non-point sources of pollution, including runoff, septic waste, and the disposal of litter and all other wastes, avoid any sewage discharges from boats, and otherwise implement the water quality initiatives contained in the Niantic River Watershed-Based Plan.
- d) The relatively shallow area providing valuable fisheries habitat just north of the Bar and south of the federal channel (see Map 6-2) is identified as a natural area of special significance. As such, it should be protected from any significant adverse impacts that might be caused by nearby use and development activities.

5. Shellfish Management

- a) Shellfish resources, including shellfish populations and the habitat needed for those populations to thrive, should be protected and, to the extent feasible, enhanced. For harbor management purposes, it is recognized that the locations of significant shellfish resource areas may shift from time to time due to storms and other natural conditions. Moorings tackle should not be placed on significant shellfish resource areas identified by the Waterford-East Lyme Shellfish Commission and the Connecticut Bureau of Aquaculture.

- b) The Waterford-East Lyme Shellfish Commission should be encouraged to prepare, implement, and amend as necessary a shellfish management plan, including a habitat restoration program, for the lower Niantic River.
- c) In accordance with Sec. 26-157a(e) of the Connecticut General Statutes, no mooring tackle may be placed on any shellfish bed without the permission of the owner or lessee of that bed.
- d) To avoid significant adverse impacts on shellfish resources and harvesting opportunities in the Lower Niantic River, appropriate alternatives to traditional mushroom anchors, including but not limited to helical embedment anchors, may be considered for mooring vessels.

6. Dredging

- a) Maintenance dredging of the federal channel should be carried out by the U.S. Army Corps of Engineers in the most timely manner needed to ensure safe and efficient navigation and the continued viability of recreational boating facilities in the Niantic River.
- b) A portion of the nearshore area north of the Bar and near the federal channel is identified as a long-term opportunity area for the support of recreational boating and public water access facilities in the lower Niantic River and Bar area. (See Map 6-2.) The Town should support future dredging of this area to provide public water-access opportunities if it is determined, based on best available scientific information, that such dredging can be carried out in a cost-effective manner that does not cause any significant adverse impacts on coastal resources.
- c) Nonfederal maintenance dredging should be carried out in the most timely manner needed to ensure navigation safety and the continued viability of existing boating facilities.

7. Marine Commercial Area

- a) The Town should encourage and support the continued beneficial operation of the commercial boatyard and marina facilities in the Marine Commercial Area. (See Map 6-2.) The Town should apply the authority and policies of the Connecticut Coastal Management Act and East Lyme Municipal Coastal Program in developing special zoning and other land-use regulations and incentives for encouraging and supporting the continued operation of these water-dependent facilities.
- b) Any future development activities that may affect established water-dependent uses, including existing marina and/or boatyard facilities, should not result in significant reduction of currently available recreational boating services, including, but not limited to, boat maintenance, repair, berthing, and storage facilities of local and/or regional significance and for which there is a reasonable demand.

- c) The potential effects of waterfront development proposals in the Marine Commercial Area on future water-dependent uses, navigation, and public safety should be important considerations in the review of such proposals by the Harbor Management Commission, the Planning and Zoning commissions and other Town commissions, as well as by state coastal permitting agencies and the U.S. Army Corps of Engineers.
- d) The design and review of waterfront development proposals in this area should take into consideration the capacity of coastal resources in the lower Niantic River to accommodate increased water use without significant adverse impacts on coastal resources and public safety.
- e) The construction or extension of public and private docks and piers in the Marine Commercial Area should not infringe unreasonably on the littoral rights of nearby property owners.
- f) Appropriate navigation fairways may be designated to ensure safe and efficient navigation between Town and private boating facilities in the Marine Commercial Area and the federal channel in the Niantic River
- g) Any new or expanded marina facility should provide on-site vessel-waste pump-out facilities. Existing marinas should be encouraged to add on-site pump-out facilities.
- h) Boat slips should not be used by vessels that exceed the design size of the slip. Vessels should not be berthed so as to extend past any tie-out poles used to secure the vessel in its slip if such extension adversely affects safe and efficient navigation.

8. Federal Navigation Project

- a) The existing Congressionally authorized width of 100 feet, depth of six feet at mean lower low water, and position of the federal navigation channel in the Niantic River should be maintained to meet the navigation requirements of recreational and commercial vessels. The navigation channel should be maintained free of any unauthorized encroachments and otherwise managed in accordance with all applicable provisions concerning use of federal navigation projects, including the U.S. Army Corps of Engineers' "open-to-all on equal terms" policy.

9. Stimulating Economic Development in the Niantic Business District

- a) The Town should pursue sustainable economic benefits through water-dependent development in the Marine Commercial Area, including benefits to businesses in the Marine Commercial Area and Niantic Business District.

10. Grand Street Boat Launch

- a) The Grand Street Boat Launch should be managed and maintained as a focal point and central facility for public boat launching access in the East Lyme Harbor Management Area. Consistent with existing Town plans and land-use regulations and the capacity of coastal resources, the Town should continue to enhance the facility for use by trailered vessels. Consideration should be given to providing public facilities for safe and enjoyable use by visiting boaters, including floating docks and dinghy landing facilities. Persons launching “car-top” vessels such as canoes, dinghies, and kayaks transported without trailers are encouraged to use the “car-top” launching facility at Cini Memorial Park.
- b) Use of the Grand Street Boat Launch site for launching and retrieving vessels and for parking vehicles should be effectively monitored and regulated. Reasonable time limits for site use should be posted. Facility maintenance should be carried out in the most timely manner possible to ensure continued beneficial public use and enjoyment of the facility. The level of facility maintenance and Town resources allocated for facility maintenance should be commensurate with the status of the Boat Launch as the Town’s focal point and principal facility for public boat launching access.
- c) A navigation fairway of sufficient width to ensure safe and efficient navigation between the Grand Street Boat Launch and the federal channel should be maintained.
- d) Town parking regulations should be effectively enforced and parking for use of the launching area carefully monitored to ensure that use of the launching area does not result in traffic congestion and parking problems along Grand Street and in nearby neighborhoods. The Town should evaluate and pursue any opportunities that would allow for public use of nearby commercial parking areas by boat launch users.

11. Public Safety

- a) Due to the presence of numerous berthing facilities, moored and anchored vessels, and sensitive coastal resources, special attention should be given to effective enforcement of state and local boating laws, regulations, and ordinances concerning vessel speed and wake. State and local boating laws, regulations, and ordinances, including, but not limited to, Sec. 15-121-B14 of the Regulations of Connecticut State Agencies and Sec. 5.a of the East Lyme Harbor Management Ordinance, should be effectively enforced to avoid navigation conflicts and adverse impacts on coastal resources.
- b) Pursuant to Sec. 5.a of the East Lyme Harbor Management Ordinance, vessel speed in the federal navigation channel shall be limited to 6 mph. Vessel speed should be restricted to 6 mph throughout this planning unit, including the federal channel and all other water areas.
- c) A sufficient number of vessel speed limit signs should be placed in accordance with necessary Department of Energy and Environmental Protection approvals to increase boater awareness and support effective enforcement of speed restrictions.

12. Shorefront Neighborhood Protection

- a) The traditional character and beneficial quality of life associated with shorefront residential areas in this planning unit should be protected. All boating uses and other water access activities should be carried out in a manner that does not adversely affect the shorefront residential areas.

13. Harbor Management Coordination with the Town of Waterford

- a) To the extent feasible, the Town should coordinate harbor management initiatives, including water quality monitoring, formulation of pollution abatement measures, management of mooring locations, planning and implementation of dredging projects, and other activities, with the Town of Waterford and the Waterford-East Lyme Shellfish Commission.
- b) The police departments of East Lyme and Waterford should continue to cooperate as necessary in carrying out law enforcement and emergency management activities in the lower Niantic River.

THE BAR AND BRIDGE HARBOR MANAGEMENT SUB-AREA

This harbor management area separating the Niantic River from Niantic Bay includes the area known as the “Bar” at the mouth of the Niantic River and the narrow channel through which the river enters the Bay between the Route 156 bridge and the railroad bridge. The Bar and the channel area are designated as separate planning units. Recommended harbor management guidelines for the area are illustrated in the conceptual water use plan shown in Map 6-3 and described below and on the following pages.

THE BAR PLANNING UNIT

At the mouth of the Niantic River, the narrow spit of land known as the Bar includes the Route 156 and railroad right-of-ways, the western approaches to the Route 156 and railroad bridges, Cini Memorial Park, the Niantic River Boardwalk, the Railroad Beach and Niantic Bay Boardwalk on Niantic Bay, and privately-owned land between the two bridge approaches. The following harbor management guidelines are established. (See Map 6-3.)

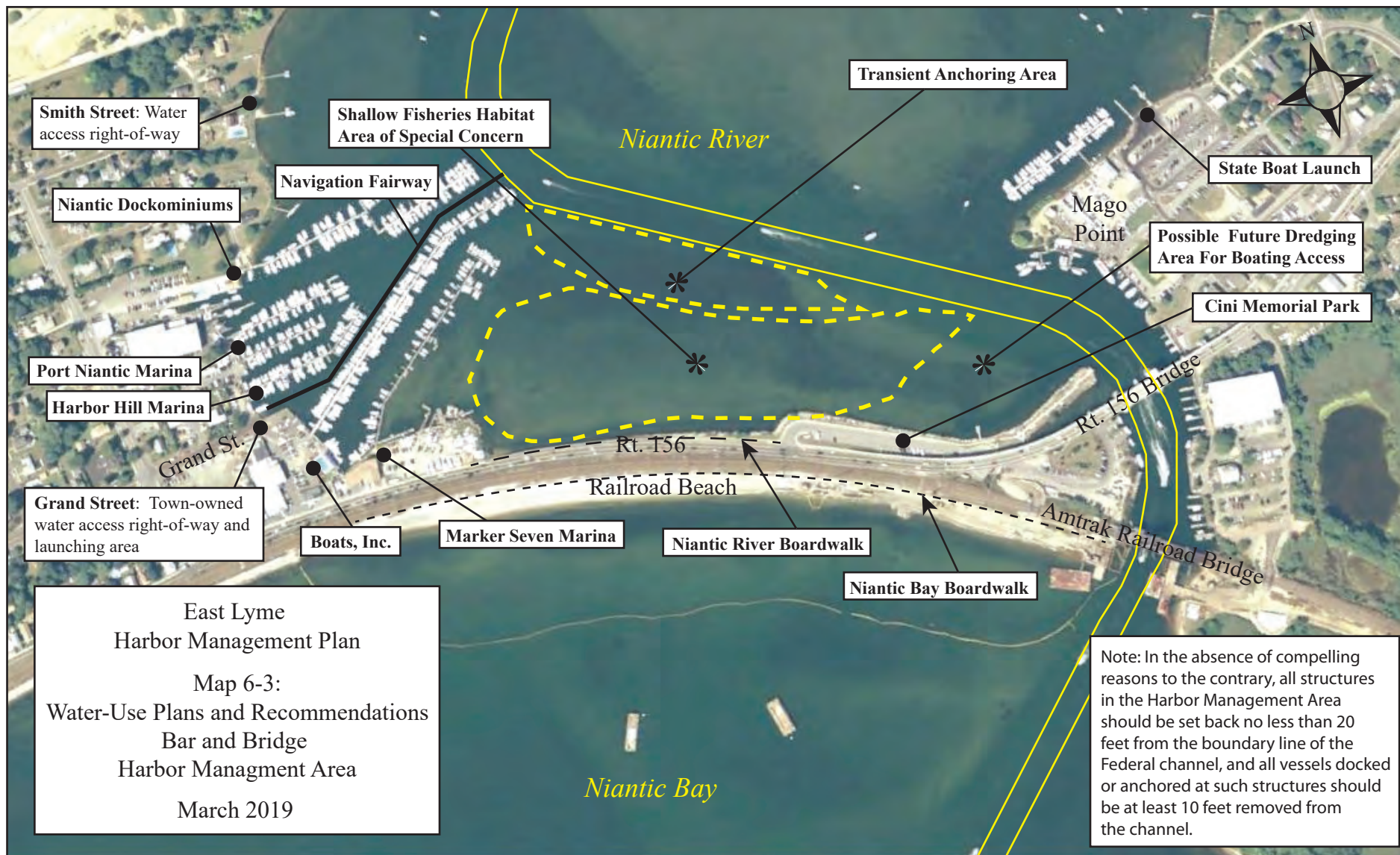
1. Water Access Opportunities

- a) Public areas and facilities on the Bar, including Cini Memorial Park, the Niantic River Boardwalk, the Railroad Beach, and the Niantic Bay Boardwalk, should be maintained, enhanced, and promoted to provide a multiple-use coastal recreation and water-access area of local, regional, and state-wide significance. The water-based tourism benefits of this public area, including economic, recreational, and cultural benefits to the Town and south-eastern Connecticut region, should be recognized, pursued, and promoted.

- b) The Harbor Management Commission, in coordination with other Town agencies, should continue to evaluate opportunities and constraints associated with use and maintenance of public water access areas and facilities on the Bar and continue to prepare recommendations for enhanced public use of this site.
- c) The Town should continue to coordinate planning for enhancement of public water-access facilities on the Bar with the Connecticut Department of Transportation, the Connecticut Department of Energy and Environmental Protection, the National Railroad Passenger Corporation (Amtrak), and other involved state and federal agencies.
- d) Public acquisition of additional land on the Bar should be encouraged and supported provided acquisition would be in accordance with a comprehensive Town plan for enhancement of public facilities and increase the status of the Bar as a multiple-use, coastal access area of local, regional, and state-wide significance.

2. Cini Memorial Park and Niantic River Boardwalk

- a) Cini Memorial Park should be managed and maintained as a focal point and central facility for public recreational activities on the East Lyme shoreline, providing opportunities for safe and enjoyable public access to the Niantic River. Facilities to be maintained for public use and enjoyment include a fishing pier; launching/landing area for “car-top” vessels such as canoes, dinghies, and kayaks; vehicle parking area; benches; a picnic area, pedestrian walkways; and interpretive signage depicting information on the natural and cultural history of the East Lyme coastal area. Well-designed pedestrian facilities and amenities, including, but not limited to, the Niantic River Boardwalk, should link the park with the Niantic Business District and with the Railroad Beach and Niantic Bay Boardwalk. (See no. 3 below.)
- b) Continued development and enhancement of public facilities should be encouraged and supported to provide opportunities for physical and visual access to the Niantic River and best serve the boating public. Consideration should be given to providing a vessel-waste pump-out station; restroom and concession facility; observation deck; berthing, docking, and on-land support facilities for visiting boaters and commercial fishermen; facilities, including dinghy launching and landing facilities, to provide access to and from mooring and transient anchoring locations in the lower Niantic River; and other amenities and facilities determined to meet demonstrated public needs and provide public benefits in a cost-effective, environmentally sound manner.
- c) The entire shoreline of the former Route 156 bridge approach known as the “peninsula” should be considered an opportunity area for construction of berthing and docking facilities for visiting boaters and commercial fishermen.
- d) The level of facility maintenance and Town resources allocated for facility maintenance should be commensurate with the status of the park as an integral component of a coastal access facility of local, regional, and state-wide significance.



NOTE: Boundaries of Federal Navigation Channel are shown for planning purposes only, not for regulatory or engineering purposes.

ORTHOPHOTOGRAPHY: 2010 National Agricultural Imagery Program (NAIP) provided by the Connecticut DEEP.

- e) Public boating facilities on the Bar should provide opportunities for access to mooring locations in the Lower Niantic River and on-shore facilities for visiting boaters, and should complement, without duplicating, public boating facilities at the Town's Grand Street Boat Launch. (See No. 10 on page 6-16.)

3. Railroad Beach and Niantic Bay Boardwalk

- a) The Railroad Beach should be managed and maintained as a focal point and central facility for public recreational activities on the East Lyme shoreline, providing opportunities for safe and enjoyable public access to Niantic Bay for swimming, fishing, shellfishing, walking, picnicking, and enjoyment of scenic views. Public amenities should include, but not be limited to, benches, pedestrian walkways, access under the railroad bridge for pedestrians and emergency vehicles, and interpretive signage depicting information on the natural and cultural history of the East Lyme coastal area. Well-designed pedestrian facilities and amenities, including, but not limited to, the Niantic Bay Boardwalk, should link the beach with Hole-in-the-Wall Beach and with Cini Memorial Park and the Niantic River Boardwalk. (See no. 2 above.)
- b) Continued development and enhancement of public facilities should be encouraged and supported to provide handicapped accessible opportunities for physical and visual access to Niantic Bay in a cost-effective, environmentally sound manner, including, but not limited to, in-water structures to accommodate land-based fishing. Consideration should also be given to providing a landing area to accommodate dinghies providing shore access from vessels anchored in Niantic Bay.
- c) The level of facility maintenance and Town resources allocated for facility maintenance should be commensurate with the status of the Railroad Beach and Niantic Bay Boardwalk as integral components of a coastal access facility of local, regional, and state-wide significance. Jetty maintenance should be sufficient to help maintain the stability of the public beach and avoid the movement of beach sand into the federal navigation channel.

4. Protection of Coastal Resources and Water Quality

- a) When considering opportunities and constraints for continued enhancement of Town water-access facilities on the Bar, the Town should identify the potential environmental impacts that would be associated with enhanced facilities and uses, including the potential impacts of any dredging needed to provide additional public boating facilities. Potential environmental impacts should be avoided or minimized in any future plans for enhanced public use of the Bar.

5. Improved Water Circulation

- a) The Town should investigate any feasible opportunities to improve water circulation and tidal exchange between the Niantic River and Niantic Bay for the purpose of improving water quality and restoring and/or enhancing coastal resources, including shellfish resources, in the Niantic River estuary. Any proposal for improving water circulation and

tidal exchange should be based on best available scientific information and sound engineering practice and prepared in consultation with the local, state, and federal agencies with relevant authorities and interests. Any project for improving water circulation and tidal exchange should be pursued only if it is determined that the project will provide significant environmental benefits, be implemented at a reasonable cost relative to anticipated benefits, and not cause any significant adverse impacts on coastal resources.

BRIDGE CHANNEL PLANNING UNIT

This area is defined by the East Lyme portion of the narrow channel (including the designated federal navigation channel) through which the Niantic River enters Niantic Bay between the Route 156 bridge and the railroad bridge. The following harbor management guidelines are established. (See Map 6-3.)

1. Navigation Safety

- a) Appropriate signs and markers identifying boating rights-of-way and potentially hazardous navigation conditions may be placed in the bridge area by the Harbor Master or Police Department's Marine Unit, acting in consultation with the Harbor Management Commission with any necessary approvals from other agencies, including the Connecticut Department of Energy and Environmental Protection.
- b) In coordination with the Town of Waterford, the Town may consider the installation and maintenance of a cost-effective lighted signal system to guide boat traffic on either side of the highway and railroad bridges when necessitated by peak use, tide, and other conditions.
- c) Pursuant to Sec. 15-121-B14 of the Regulations of Connecticut State Agencies and Sec. 5.a of the East Lyme Harbor Management Ordinance, vessel speed in the federal navigation channel shall be limited to 6 mph.

2. Bridge Operations

- a) Bridge operations (including procedures and practices for bridge openings and the number of bridge openings) should be reviewed by the Harbor Management Commission and Harbor Master on a yearly basis or as needed. This review may consider if: a) the bridges are operating in accordance with published Coast Guard regulations; b) the bridges are being maintained in a manner to assure their continued safe and reliable operation; c) fenders and height gauges are in place and are repaired or replaced as necessary; and d) there are any problems or complaints concerning bridge operations.
- b) Any observed deficiencies and suggestions for improved bridge operation should be brought to the attention of the appropriate agencies (Coast Guard, Connecticut Department of Transportation, Federal Railroad Administration) and Town officials.

3. In-Water Structures

- a) In-water and waterfront development activities should not result in any further constriction of the navigable waterway or water circulation conditions-in the channel.
- b) All proposals for in-water and waterfront structures and development affecting the channel area should be carefully planned and reviewed to avoid constriction of the navigable waterway, reduction of water circulation and tidal exchange, and potential interference with vessels operating in the channel.
- c) Docks and other in-water structures should be set back from the federal channel boundaries a sufficient distance so as not to interfere with the safe and efficient operation-of vessels in the federal channel. Special in-water setback standards should be applied to this area to ensure that all piers, docks, bulkheads, seawalls, pilings, and other structures are set back from the boundaries of the channel a sufficient distance to ensure that these structures (and any vessels docked or anchored at these structures) do not interfere with safe and efficient navigation in the channel.

4. Harbor Management Coordination with the Town of Waterford

- a) The Town of Waterford should be encouraged to develop in-water setback standards that would apply to the Waterford side of the federal channel in the area between the highway and railroad bridges. These standards should complement the East Lyme standards (see No. 3(c) above) and thereby provide a consistent approach to harbor management in the channel area.

5. Protection of Coastal Resources and Water Quality

- a) All feasible efforts by the State of Connecticut and Amtrak to reduce the amount of pollutants discharging into the Harbor Management Area from the Route 156 and railroad bridges should be encouraged and supported. Any work to maintain or repair the bridges should be carefully planned and monitored to reduce or avoid any potentially adverse impacts on water quality resulting from bridge work.

6. Federal Navigation Project

- a) The existing Congressionally authorized width of 100 feet, depth of six feet at mean lower low water, and position of the federal navigation channel should be maintained to meet the navigation requirements of recreational and commercial vessels. The navigation channel should be maintained free of any unauthorized encroachments and managed in accordance with all applicable provisions concerning use of federal navigation projects, including the U.S. Army Corps of Engineers' "open-to-all on equal terms" policy.

7. Water-Dependent Uses

- a) Through application of the authority and policies of the Connecticut Coastal Management Act, East Lyme Municipal Coastal Program, Harbor Management Plan, and East Lyme Zoning Regulations, the Town should encourage and support continued beneficial operation of suitable water-dependent uses along the shoreline, including facilities supporting commercial fishing.

Niantic Bay Harbor Management Sub-Area

The Niantic Bay Harbor Management Sub-Area is bounded on the north by the “Bar” at the mouth of the Niantic River, on the east by the north-south line marking the East Lyme-Waterford town boundary, on the south by an imaginary line connecting Millstone Point and Black Point, and on the west by Black Point. This harbor management sub-area includes the shorefront and nearshore area from just west of the railroad beach and extending to the west and south along McCook Point, Crescent Beach, and Black Point as well as the open waters of Niantic Bay.

Within this harbor management sub-area, the following planning units are identified for the purpose of developing water-use plans and harbor management guidelines: Hole-in-the-Wall Beach; McCook Point-Crescent Beach; Black Point; and Niantic Bay.

Effective harbor management in these areas should be accomplished, in part, through implementation of the conceptual water use plan shown in Map 6-4. This plan is consistent with the Town’s goals, objectives, and policies for harbor management presented in chapters four and five of the *East Lyme Harbor Management Plan*. Recommended components of this water-use plan, along with other guidelines for uses and activities in the individual planning units, are described below and on the following pages.

Hole-in-the-Wall Beach Planning Unit

The Hole-in-the-Wall Beach Planning Unit includes the nearshore and shorefront areas west of the Bar and railroad beach and extending to McCook Point. The following harbor management guidelines are established. (See Map 6-4.)

1. Water Access Opportunities

- a) Hole-in-the-Wall Beach should be managed and maintained as one of the Town’s principal public beach recreation areas, providing opportunities for safe and enjoyable public access to Niantic Bay in the East Lyme Harbor Management Area, including access for swimming, fishing, shellfishing, and non-motorized boating activities such as board sailing, kayaking, and canoeing. Public amenities should include, but not be limited to, benches; pedestrian walkways; access through the railroad embankment for emergency vehicles, and interpretive signage depicting information on the natural and cultural history of the East Lyme coastal area. Well-designed pedestrian facilities and amenities, including, but not limited to, the Niantic Bay Boardwalk, should link the beach with the railroad beach to the east and Cini Memorial Park and the Niantic River Boardwalk.

East Lyme
Harbor Management Plan

Map 6-4:
Water-Use Plans and
Recommendations
Niantic Bay Harbor
Management Area

March 2019

EAST LYME

**McCook Point Park -
Hole-In-The-Wall-Beach
Water Recreation Area:**
Opportunity area for future
community boating center and
small craft training center;
Encourage pedestrian linkage
with Niantic Bay Boardwalk and
Crescent Beach Assoc. Bluff
Walkway

Niantic Bay Boardwalk

Transient Anchorage

Hole-In-The-Wall Beach

McCook Point Beach

**Crescent Beach Assoc.
Bluff Walkway including
Public Access**

SPECIAL
ANCHORAGE

Niantic Bay
Yacht Club

WATERFORD

NIANTIC BAY

Sea Breeze Ave.:
Black Point Beach
Association water
access right-of-way

Osprey Road:
Black Point Beach
Association water
access right-of-way

OUTER LIMIT OF EAST LYME HARBOR MANAGEMENT AREA BOUNDARY

* While waterfront property owners have littoral rights of access to navigable water, private ownership of waterfront property, including ownership by private beach associations, does not extend waterward of the Mean High Water line.

Note: Consistent with the constraints posed by natural conditions and existing beach uses, the nearshore area along the Black Point shoreline may be considered for the placement of individual-private (non-commercial) moorings. Due to the lack of water access opportunities and the limited area available for mooring placement, moorings in this area should be intended primarily for the use of shorefront property owners.

Long Island Sound

Old Black Point Road:
Old Black Point Association
water access right-of-way

LAND OWNED BY PRIVATE BEACH ASSOCIATIONS*
WATERFRONT WALKWAY

1/2 Nautical Miles



NOTE: Boundaries of Harbor Management Area, including the center line of the Niantic River, are shown for planning purposes only, not for regulatory or engineering purposes.
ORTHOPHOTOGRAPHY: 2010 National Agricultural Imagery Program (NAIP) provided by the Connecticut DEEP.

- b) Continued development and enhancement of public facilities should be encouraged and supported to provide opportunities for physical and visual access to Niantic Bay for recreational and educational purposes. Consideration should be given to providing improved small craft launching facilities, a more permanent Town launching ramp for small craft on the eastern edge of the beach, small craft storage facilities, and other amenities and facilities planned to provide public benefits in a cost-effective, environmentally sound manner. Well-designed demonstration projects for environmental stewardship, including the existing Hole-in-the-Wall Beach Outdoor Stormwater Classroom incorporated into the design and maintenance of the beach parking area, should be encouraged and supported.
- c) The Town should pursue any opportunities that may arise in the future to provide expanded beach parking facilities north of the railroad, including areas to accommodate boat trailer parking.
- d) The Town should identify and evaluate any opportunities for improving pedestrian and small craft access to the beach through the railroad embankment.
- e) In coordination with possible future improvement of small craft launching facilities, the Town should evaluate the feasibility of establishing a community boating center and small craft training program to be operated at the beach. Consideration should be given to establishing on-land support facilities for such a center and program at McCook's Point Park (see No. 1(c) on page 6-24).
- f) The location of possible future small craft launching and storage areas, as well as the Town swimming area and navigation fairways from the beach to Niantic Bay, should be designated on the water use plan for this planning unit. Potential conflicts between small craft training and launching activities, swimming, and other water activities should be avoided through adherence to the water-use plan.
- g) To the extent feasible, opportunities and constraints for construction of a breakwater to protect enhanced boating and water access facilities at Hole-in-the-Wall Beach should be evaluated. The construction of such a breakwater should be considered only if the project can be carried out at a reasonable cost relative to the benefits provided and in a manner that does not result in any significant adverse impacts on coastal resources.

2. Public Safety

- a) Except by specific authorization, or in the case of emergency, no vessel should enter into the Town swimming area at Hole-in-the-Wall Beach as designated by official markers placed by the Parks and Recreation Commission.

McCook Point-Crescent Beach Planning Unit

This planning unit includes the nearshore area and the Town-owned and private shorefront between McCook Point and the Niantic Bay Yacht Club. The following harbor management guidelines are established. (See Map 6-4.)

1. Water Access Opportunities

- a) McCook Point Park should be managed and maintained as one of the Town's principal public beach recreation areas, providing opportunities for safe and enjoyable public access to Niantic Bay in the East Lyme Harbor Management Area, including access for swimming, fishing, shellfishing, and enjoyment of water views. Public amenities should include, but not be limited to, benches; pedestrian walkways; and interpretive signage depicting information on the natural and cultural history of the East Lyme coastal area. Well-designed pedestrian facilities and amenities should link the park with Hole-in-the-Wall Beach and the Niantic Bay Boardwalk to the east, and with the public access walkway provided by the Crescent Beach Bluff Walkway to the south.
- b) Continued development and enhancement of public facilities should be encouraged and supported to provide opportunities for physical and visual access to Niantic Bay for recreational and educational purposes. All public amenities and facilities should be planned to provide public benefits in a cost-effective, environmentally sound manner.
- c) To the extent possible, the Town should promote and encourage enhanced water-dependent use and activities at McCook Point Park, including possible facilities to support a future community boating center and small craft training center as may be operated at Hole-in-the-Wall Beach (see No. 1(e) on page 6-23).

2. Public Safety

- a) Except by specific authorization, or in the case of emergency, no vessel should enter into the Town swimming area at McCook Point as designated by official markers placed by the Parks and Recreation Commission or into any private swimming area as indicated by floating markers placed in conformance with appropriate permits from the Connecticut Department of Energy and Environmental Protection.

3. Niantic Bay Yacht Club

- a) The Town should support the continued operation of the Niantic Bay Yacht Club as a water-dependent use providing important boating-related services and facilities in the East Lyme Harbor Management Area.

4. Moorings

- a) Subject to any constraints imposed by water depths, bottom conditions, coastal resources, available water area, and water access areas, the nearshore area from McCook Point Beach

to the Niantic Bay Yacht Club, including the part of the Special Anchorage Area located in this area, is suitable individual-private moorings locations, including moorings locations utilized by members of the Yacht Club and others. All moorings locations within this area are subject to review and approval by the Harbor Master and should be limited to designated areas delineated by the Harbor Management Commission and Harbor Master.

- b) Determination of the precise number of all mooring locations, size of moored vessels, and specific locations for placement of all mooring tackle should be made by the Harbor Master in consultation with the Harbor Management Commission, and be based on consideration of: water depths, the capacity of Niantic Bay to accommodate additional mooring locations without adverse effects on safe and efficient navigation and natural resources (including fishery resources); and the availability of suitable shoreline access sites to serve additional mooring locations without disturbing the existing quality of life and traditional character of shorefront residential neighborhoods and unduly infringing on the littoral rights of waterfront property owners.

5. Shorefront Neighborhood Protection

- a) The traditional character and beneficial quality of life associated with the shorefront neighborhood at Crescent Beach should be maintained. All boating uses and other water activities should be conducted in a manner that does not adversely affect the shorefront residential areas.

BLACK POINT PLANNING UNIT

The Black Point Planning Unit includes the shoreline and nearshore areas along the eastern shoreline of Black Point south of the Niantic Bay Yacht Club. The following harbor management guidelines are established. (See Map 6-4.)

1. Mooring Areas

- a) Consistent with the constraints posed by natural conditions and existing beach uses, the nearshore area along Black Point south of the Niantic Bay Yacht Club and including the southern part of the Special Anchorage Area is suitable for individual-private (non-commercial) moorings locations. Due to the lack of water access opportunities and the limited area available for mooring tackle placement, moorings-locations in this area should be intended primarily for the use of shorefront property owners. All mooring locations within this area are subject to review and approval by the Harbor Master.
- b) Determination of the precise number of all mooring locations, size of moored vessels, and specific locations for placement of all mooring tackle should be made by the Harbor Master in consultation with the Harbor Management Commission, and be based on consideration of: water depths, the capacity of Niantic Bay to accommodate additional mooring locations without adverse effects on safe and efficient navigation and natural resources (including fishery resources); and the availability of suitable shoreline access sites to serve additional mooring locations without disturbing the existing quality of life and traditional character

of shorefront residential neighborhoods and unduly infringing on the littoral rights of waterfront property owners.

2. Shorefront Neighborhood Protection

- a) The traditional character and beneficial quality of life associated with the private beach associations in this planning unit should be maintained. All boating uses and other water-access activities should be carried out in a manner that does not adversely affect the traditional and beneficial character of shorefront residential areas.

3. Protection of Coastal Resources and Water Quality

- a) The priority use of all intertidal flats, beaches, and other coastal resources in this planning unit should be preservation. Limited water-dependent uses and structures in intertidal areas may be appropriate if the resource impacts are minimal and no feasible alternative exists.

4. Public Safety

- a) Except by specific authorization, or in the case of emergency, no vessel should enter into any private swimming area as authorized by floating markers placed in conformance with appropriate permits from the Connecticut Department of Energy and Environmental Protection.

5. Water-Access Opportunities

- a) All water-access activities, including use of the water-access right-of-ways at Sea Breeze Avenue, Osprey Road, and Old Black Point Road, the public access walkway at Crescent Beach, and any other public access areas, should be consistent with applicable private beach association rules and regulations and the capacity of coastal resources to support water-access activities in a safe and environmentally sound manner.

NIANTIC BAY PLANNING UNIT

This planning unit encompasses the major portion of the open waters of Niantic Bay. The following harbor management guidelines are established. (See Map 6-4.)

1. Fisheries Management

- a) The Town should encourage and support preparation and implementation, based on best available scientific information, of an appropriate shellfish restoration and management program in the Bay. Consideration may be given to plan implementation through a cooperative agreement between the East Lyme Shellfish Commission and a commercial shell-fishing company.

- b) The Town should support continued efforts by the Connecticut Department of Energy and Environmental Protection to monitor commercial fisheries in the Bay and to establish appropriate controls as necessary to ensure the continued viability of the fisheries resources.

2. Public Safety

- a) Effective enforcement of boating laws, regulations, and ordinances should be carried out by the Police Department's Marine Unit and DEEP's Environmental Conservation Police to avoid and discourage reckless operation and any adverse impacts on public safety that may be caused by high speed boat operation in the Bay.
- b) Pursuant to Sec. 15-121-B14 of the Regulations of Connecticut State Agencies and Sec. 5.a of the East Lyme Harbor Management Ordinance, vessel speed in the federal navigation channel shall be limited to 6 mph (Slow-No-Wake).

3. Transient Anchorage

- a) A specific water area south of the "Bar" may be reserved as a transient anchorage providing opportunities for access to the Railroad Beach and Niantic Bay Boardwalk. (See Map 6-4.) Consideration should be given to providing a nearby landing area to accommodate dinghies providing shore access to and from vessels anchored in Niantic Bay. (See the Bar Planning Unit.)

4. Harbor Management Coordination with the Town of Waterford

- a) To the extent possible, the Town should coordinate harbor management activities with the Town of Waterford. The police departments of East Lyme and Waterford should continue to cooperate as necessary in carrying out law enforcement and emergency management activities in Niantic Bay.

5. Federal Navigation Project

- a) The existing Congressionally authorized width of 100 feet, depth of six feet at mean lower low water, and position of the federal navigation channel in Niantic Bay should be maintained to meet the navigation requirements of recreational and commercial vessels. The navigation channel should be maintained free of any unauthorized encroachments and managed in accordance with all applicable provisions concerning use of federal navigation projects, including the U.S. Army Corps of Engineers' "open-to-all on equal terms" policy.

PATTAGANSETT-ROCKY NECK HARBOR MANAGEMENT AREA

This harbor management area includes the shoreline, nearshore, and open water areas west of Black Point extending to the imaginary north-south line marking the town boundary between East Lyme and Old Lyme. This area is bounded on the south by the line in Long Island Sound extending from Black Point to Hatchett Point.

Within this area, three planning units are identified for the purpose of developing water use plans and harbor management guidelines. These planning units are: Pattagansett River Estuary; Giants Neck; and Rocky Neck.

Effective harbor management in these areas should be accomplished, in part, through implementation of the conceptual water use plan shown on Map 6-5. This plan is consistent with the Town's goals, objectives, and policies for harbor management presented in Chapter Four and Chapter Five of the *East Lyme Harbor Management Plan*. Recommended components of the water use plan, along with other guidelines for uses and activities in the planning units, are described below and on the following pages.

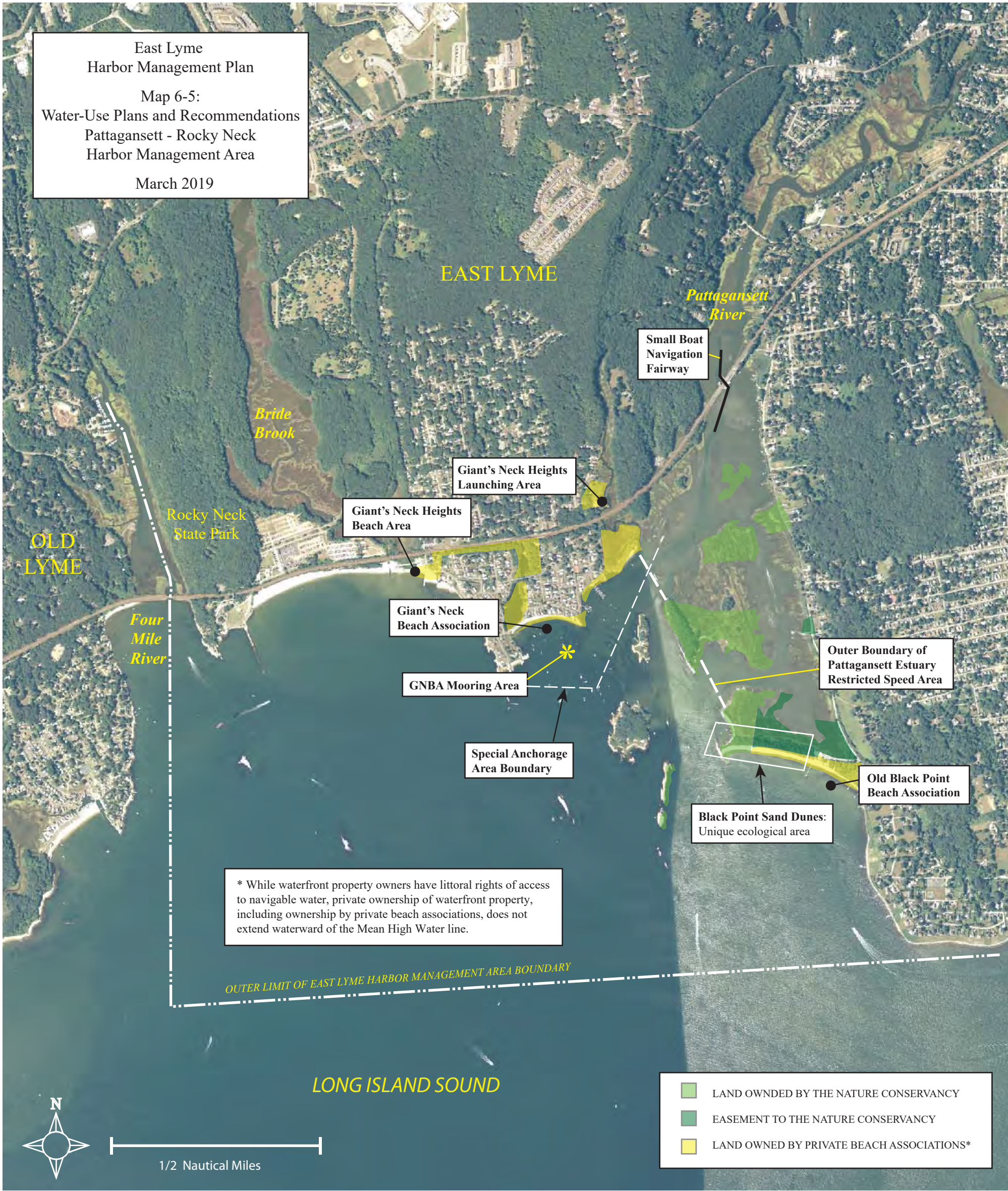
PATTAGANSETT RIVER ESTUARY PLANNING UNIT

This planning unit includes the mouth of the Pattagansett River and the extensive wetlands and several islands bounded by Black Point on the east, Giants Neck on the west, and extending upstream to Route 156. The following harbor management guidelines are established. (See Map 6-5.)

1. Protection of Coastal Resources and Water Quality

- a) The protection of natural resources values, including values related to fish and wildlife habitat, water quality maintenance, flood protection, and scenic quality, should take precedence over recreational boating facility development in this planning unit.
- b) The intertidal flats, wetlands, beaches, and other coastal resources found in this planning unit should be preserved. Limited water-dependent uses and structures in intertidal areas may be appropriate if the resource impacts are minimal and no feasible alternative exists.
- c) Town efforts to improve water quality in the estuary should include measures to reduce point and non-point sources of pollution in the Pattagansett River watershed and any sewage discharge from boats.
- d) The Town should encourage the use of private initiatives, including the use of conservation easements and transfer of privately-owned land to conservation organizations, to protect undeveloped land in the Pattagansett River estuary with significant natural resource value.
- e) Long-term preservation of the sand dunes and associated natural resource values on Black Point Beach should receive continued high priority management attention.

East Lyme
Harbor Management Plan
Map 6-5:
Water-Use Plans and Recommendations
Pattagansett - Rocky Neck
Harbor Management Area
March 2019



NOTE: Boundaries of Harbor Management Area, including the center line of the Niantic River, are shown for planning purposes only, not for regulatory or engineering purposes.
ORTHOPHOTOGRAPHY: 2010 National Agricultural Imagery Program (NAIP) provided by the Connecticut DEEP.

- f) All feasible efforts by the State of Connecticut, Town of East Lyme, and Amtrak to reduce the amount of pollutants discharging into the estuary from the Route 156, Fairhaven Road, and railroad bridges should be encouraged and supported. Any work to maintain or repair these bridges should be carefully planned and monitored to reduce or avoid any potentially adverse impacts on water quality resulting from bridge work.

2. Shellfish Management

- a) Shellfish resources, including shellfish populations and habitat, should be protected and enhanced. The Pattagansett River estuary should be a primary area of focus for implementation of the East Lyme Shellfish Management Plan.
- b) A pilot project for restoration of shellfish habitat in the estuary should be encouraged and supported. This project should be carefully monitored and, if successful, similar projects should be designed and carried out elsewhere in the Harbor Management Area under the direction of the East Lyme Shellfish Commission.
- c) Moorings tackle should not be placed on any significant shellfish resource areas identified by the East Lyme Shellfish Commission.

3. Navigation Fairway

- a) A small boat navigation fairway to remain free of obstructions, generally 100 feet wide and following the natural channel of the river, is herein designated to maintain safe and efficient navigation through the railroad bridge. (See Map 6-5.)

4. Public Safety

- a) Effective and strict enforcement of state boating laws, regulations, and ordinances should be carried out by the East Lyme Police Department's Marine Patrol Unit and the Connecticut DEEP's Environmental Conservation Police to avoid and discourage reckless operation and any adverse impacts that may be caused by high speed boat operation.
- b) Pursuant to Sec. 15-121-B14 of the Regulations of Connecticut State Agencies and Sec. 5.a of the East Lyme Harbor Management Ordinance, vessel speed shall be limited to 6 mph in the Pattagansett River Estuary Restricted Speed Area as marked by signs placed in accordance with permits issued by DEEP.
- c) Signs identifying areas of restricted speed should be placed to the south and west of Watts Island and in other areas where vessels must pass within 100 feet of the shore.
- d) Except by specific authorization, or in the case of emergency, no vessel should enter into the private swimming area of the Old Black Point Association as designated by floating markers placed in conformance with appropriate permits from DEEP.

5. Shorefront Neighborhood Protection

- a) The traditional character and beneficial quality of life associated with shorefront residential areas in this planning unit should be protected. All boating uses and other water access activities should be carried out in a manner that does not adversely affect the shorefront residential areas.

GIANTS NECK PLANNING UNIT

This planning unit within the Pattagansett River estuary is here considered as a separate planning unit for purposes of the Harbor Management Plan. The Giants Neck Planning Unit is defined by the shoreline and nearshore areas of the Giants Neck Beach Association. The following harbor management guidelines are established. (See Map 6-5.)

1. Water Uses

- a) Continuation of the existing and traditional location of small craft launching areas, community swimming areas, mooring areas, and navigation fairways duly established by the Giants Neck Beach Association should be encouraged and supported. Any proposed new or modified launching, swimming, or mooring areas or navigation fairways shall be reviewed by the Harbor Management Commission for consistency with the Harbor Management Plan.
- b) Subject to any constraints imposed by water depths, bottom conditions, coastal resources, available water area, and water access opportunities, the Special Anchorage Area is suitable for individual-private moorings locations, including moorings locations maintained by residents of the Giants Neck area.
- c) Determination of the precise number of all mooring locations, size of moored vessels, and specific locations for placement of all mooring tackle in the Special Anchorage area should be made by the Harbor Master in consultation with the Harbor Management Commission, and be based on consideration of: water depths, the capacity of the Special Anchorage area to accommodate additional mooring locations without adverse effects on safe and efficient navigation and natural resources (including fishery resources); and the availability of suitable shoreline access sites to serve additional mooring locations without disturbing the existing quality of life and traditional character of shorefront residential neighborhoods and unduly infringing on the littoral rights of waterfront property owners.
- d) All moorings locations within this area are subject to review and approval by the Harbor Master.

2. Shorefront Neighborhood Protection

- a) The traditional character and beneficial quality of life associated with the Giants Neck residential area should be maintained. All boating uses and other water access activities

should be conducted in a manner that does not adversely affect the adjacent shorefront residential uses.

3. Public Safety

- a) Except by specific authorization, or in the case of emergency, no vessel should enter into the private swimming area of the Giants Neck Beach Association as designated by floating markers placed in conformance with appropriate permits from the Connecticut DEEP.

ROCKY NECK PLANNING UNIT

The Rocky Neck Planning Unit is dominated by the Rocky Neck State Park managed by the Connecticut Department of Energy and Environmental Protection, and ~~but also~~ includes the remainder of the nearshore and shoreline areas west of Giants Neck as well as the East Lyme portion of the Four Mile River upstream to Route 156. The following harbor management guidelines are established. (See Map 6-5.)

1. Protection of Coastal Resources and Water Quality

- a) To the extent possible, the Town should coordinate efforts to maintain and improve water quality in the Four Mile River with the Town of Old Lyme, and in Bride Brook with the appropriate agencies of the State of Connecticut, including but not limited to, the Bureau of Outdoor Recreation and Department of Correction. Effective efforts to improve water quality that are planned and implemented, to the extent practical, on a watershed-wide basis in the Four Mile River watershed should be encouraged and supported.
- b) Any proposals to expand boating activities in the Four Mile River should be consistent with the capacity of the waterway to accommodate those activities in a safe and environmentally sound manner.
- c) Continued operation and management of Rocky Neck State Park in an environmentally sound manner to ensure no significant adverse impacts on environmental quality, including water quality, in the East Lyme Harbor Management Area is encouraged and supported.

2. Water Uses

- a) Continuation of traditional small craft navigation in the Four Mile River should be encouraged and supported, consistent with the capacity of coastal resources to support boating activities in a safe and environmentally sound manner.
- b) The Town should support dredging of marine sediments in the Four Mile River necessary to support continuation of small craft navigation if it is determined, based on best available scientific information, that such dredging can be carried out without significant adverse impacts on coastal resources.

- c) Continued public access to the East Lyme HMA from Rocky Neck State Park in a safe and environmentally sound manner is encouraged and supported.

3. Harbor Management Coordination

- a) To the extent practical, the Town should coordinate harbor management initiatives with the Town of Old Lyme and the State Parks Division of the Connecticut DEEP to address issues of common interest, including, but not limited to, issues affecting coastal resources, safe and efficient navigation, and public access to marine and tidal waters.

7

Organization, Responsibilities, and Procedures for Plan Implementation

A Town Harbor Management Consistency Review Process shall be carried out by the Harbor Management Commission to ensure effective implementation of the Harbor Management Plan, and to provide coordinated, efficient, and comprehensive review of the proposed projects and activities affecting the Harbor Management Area.

Article II, Sec. 10 of the Town of East Lyme
Harbor Management Ordinance

This chapter replaces the original Plan implementation chapter titled “Chapter Six: Organization, Responsibilities, and Procedures for Plan Implementation” included in the *East Lyme Harbor Management Plan* adopted by the Board of Selectmen in 1994.



TOWN OF EAST LYME
HARBOR MANAGEMENT PLAN
MARCH 2019

ORGANIZATION, RESPONSIBILITIES, AND PROCEDURES FOR PLAN IMPLEMENTATION¹

This chapter sets forth the institutional framework for implementing the *East Lyme Harbor Management Plan* (the Plan), including the Plan's harbor management goals, objectives, policies, and other provisions set forth in the preceding chapters.

Plan implementation is achieved through the actions and decisions of: 1) the Board of Selectmen; 2) the East Lyme Harbor Management Commission (HMC), including the HMC's responsibility for carrying out the Town's Harbor Management Consistency Review Process; 3) other Town of East Lyme agencies; 4) the State of Connecticut Harbor Master for East Lyme; 5) relevant state and federal agencies; and 6) private groups and individuals.

BOARD OF SELECTMEN

To maintain a strong and effective Town role for managing the safe and beneficial use and conservation of the East Lyme Harbor Management Area (HMA), the Board of Selectmen, acting as the Town's legislative and administrative body, should continue to support the HMC and Plan implementation through the following actions.

- 1. Adoption of Plan amendments as needed to help ensure that the Harbor Management Plan will continue to best serve the needs and interests of the Town for safe and beneficial use of the East Lyme Harbor Management Area and conservation of coastal resources in the HMA.**

Sec. 22a-113m of the Connecticut General Statutes specifies the procedure for approval and adoption of municipal harbor management plans. According to this procedure, the Plan was reviewed by the U.S. Army Corps of Engineers (USACE), approved by the Connecticut commissioners of Environmental Protection and Transportation, and then adopted by the Board of Selectmen effective May 4, 1994. In addition, Sec. 22a-113m of the General Statutes specifies that amendments to an adopted harbor management plan must be approved and adopted in the same manner as the plan. The East Lyme Harbor Management Commission is responsible for preparing proposed amendments to the Plan as necessary and providing those proposed amendments to the USACE and State of Connecticut for review and approval, respectively, and to the Selectmen for adoption.

¹ This chapter replaces the original Plan implementation chapter titled "Chapter Six: Organization, Responsibilities, and Procedures for Plan Implementation" included in the Plan as adopted in 1994. The original implementation chapter is herein re-numbered, re-organized, and expanded to include responsibilities of the Board of Selectmen, other Town agencies, state and federal agencies, and private individuals and organizations. Implementation organization, responsibilities, and procedures included in the 1994 Plan, including responsibilities of the HMC and Harbor Master, are herein included and expanded in this chapter.

2. Adoption of amendments to Town ordinances as needed to implement specific provisions of the Harbor Management Plan.

The Board of Selectmen has the power to enact Town ordinances, including ordinances for the preservation of the order, health, welfare, and safety of the Town and its inhabitants. To maintain safe and efficient operation of the Harbor Management Area and implement other aspects of the Plan, it may be necessary from time to time to amend the East Lyme Harbor Management Ordinance and other Town ordinances. Amendment of the ordinances should be based on recommendations provided by the Harbor Management Commission. Any amended Sections of the Town ordinances pertaining to the operation of vessels should be submitted to the Boating Division of the Connecticut Department of Energy and Environmental Protection (DEEP) for review and approval.² The Board of Selectmen will hold a public hearing prior to adoption of any amendments to the Town ordinances.

3. Adoption of appropriate fees for the issuance of mooring permits or any other activity with the scope of the Harbor Management Plan.

Any new fees or amendments to existing fees should be based on recommendations provided by the Harbor Management Commission. In accordance with Section 22a-113s of the General Statutes, the HMC has the authority to propose a fee schedule for a mooring or anchorage or any other activity within the scope of the Plan. To take effect, any such fee schedule must be adopted by vote of the Board of Selectmen, acting as the Town's legislative body. Pursuant to Sec. 22a-113s of the General Statutes and Art. I, Section 4 of the East Lyme Harbor Management Ordinance, all fees collected must be dedicated for maintenance and improvement of the Harbor Management Area for the public, and for personnel and equipment directly related to the function of the HMC and Harbor Master or Deputy Harbor Master. (See no. 7 below and the following section concerning the responsibilities of the Harbor Management Commission.) The Board of Selectmen will hold a public hearing prior to adoption of any fees for activities within the scope of the Plan. When considering fees pursuant to Sec. 22a-113s of the General Statutes for mooring permits, the Selectmen may consider adopting the maximum fee provided by the General Statutes and authorizing the HMC to set the precise fee within that limit.

4. Appointment of the members of the Harbor Management Commission.

As specified in Art. II, Sec. 8 of the East Lyme Harbor Management Ordinance, all members of the seven-member HMC are appointed by the Board of Selectmen.

² Sec. 15-136 of the Connecticut General Statutes authorizes any town to make regulations respecting the operation of vessels within its territorial limits, subject to review and approval by the Connecticut Commissioner of Energy and Environmental Protection. In 2019, DEEP's Boating Division reviews any such regulations on behalf of the Commissioner.

5. Leadership and coordination for advancing the Town's interests pertaining to the Harbor Management Area.

The Selectmen should provide leadership and coordination for achievement of the Town's goals, established in the Harbor Management Plan and *East Lyme Plan of Conservation and Development* (POCD), for safe and beneficial use of the HMA and waterfront and for conservation of coastal resources. Responsible for coordinating the activities of all agencies of the Town, the Selectmen should encourage all Town agencies, including the Harbor Management Commission, to actively pursue achievement of these Town goals in the most coordinated and efficient manner, in accordance with each agency's mission. In addition, the First Selectman should encourage the East Lyme Police Department to provide appropriate assistance to the Harbor Master for achieving effective enforcement of boating laws, regulations, and ordinances in the HMA and otherwise maintaining safe and efficient operation of the HMA.

6. Encouragement and support of special projects for harbor management.

The Board of Selectmen may encourage, support, and otherwise provide leadership for implementation of special projects and other initiatives for harbor management and waterfront use and development as may be recommended in the Harbor Management Plan and Plan of Conservation and Development. The Selectmen also may propose and support other projects to achieve the Town's goals for beneficial use and conservation of the Harbor Management Area. The Selectmen's support for harbor management initiatives may be expressed through requests for funds included in the annual budget request submitted to the Town Meeting and through exercise of the Selectmen's other responsibilities.

7. Oversight, in coordination with the Harbor Management Commission, of the Town Harbor Management Account.³

Article 1, Sec. 4 of the East Lyme Harbor Management Ordinance establishes the Town's Harbor Management Account into which all fees collected for mooring permits or any other activities within the scope of the Plan must be deposited. In accordance with Sec. 22a-113s of the Connecticut General Statutes and the Harbor Management Ordinance, the account is dedicated for maintenance and improvement of the Harbor Management Area for the public, and for personnel and equipment directly related to the function of the HMC and Harbor Master or Deputy Harbor Master. In accordance with its responsibilities concerning the finances of the Town, the Board of Selectmen should provide appropriate oversight for the HMC's allocation of funds generated by mooring permit fees and any other fees that may be adopted by the Selectmen within the scope of the Plan. In addition, the Selectmen should support the annual allocation of sufficient operating funds to the HMC through the Town's normal budgeting process.

³ The Town's Harbor Management Account, used for maintenance and improvement of the HMA for the public and for necessary expenses of the HMC and Harbor Master or Deputy Harbor Master, was established following adoption of the Plan in 1994.

8. Review of any grievance against the Harbor Master with respect to removal of a vessel.

In accordance with authority provided by Sec. 15-9 of the Connecticut General Statutes, the First Selectman, acting as the Town's Chief Executive Officer, may appoint a Hearing Officer to hear any grievance that may be filed against the Harbor Master with respect to removal of a vessel.

HARBOR MANAGEMENT COMMISSION

Pursuant to its powers, duties, and responsibilities established in Art. II of the East Lyme Harbor Management Ordinance and its authorities provided by the Connecticut General Statutes, the Harbor Management Commission should continue to function as the Town's principal agency for managing the safe and beneficial use and conservation of the East Lyme Harbor Management Area. These responsibilities should include review of proposals that would affect the East Lyme HMA to ensure their consistency with the *East Lyme Harbor Management Plan*. This review process is known as the Harbor Management Consistency Review Process.

1. Management of uses and activities affecting the Harbor Management Area to the maximum extent permissible under Town, state, and federal laws, regulations, and ordinances.

Consistent with its powers, duties, and responsibilities as a municipal harbor management commission authorized by the Connecticut General Statutes and established by the East Lyme Harbor Management Ordinance, the Harbor Management Commission should function as the principal agency of the Town for managing the beneficial use and conservation of the HMA and otherwise implementing the Harbor Management Plan. Through implementation of the Plan and according to the legislative intent of the Connecticut Harbor Management Act, the HMC should continue to strengthen the Town's role and authority, relative to state and federal authorities, for managing the beneficial use and conservation of the HMA.

The HMC may utilize committees as necessary to carry out its powers and duties in the most effective manner, including committees to: address preparation and review of budget and financial matters; review proposals for consistency with the Plan; and conduct other HMC business.

2. Ongoing coordination with Town, state, and federal agencies for harbor management.

The Harbor Management Commission should maintain regular communication and liaison with the other Town agencies with authorities and responsibilities concerning the Harbor Management Area, including the Town's land-use and public safety agencies, and any other agency with relevant authorities or programs. In addition, the HMC should maintain regular communication and liaison, as necessary, with the divisions and units of the Connecticut Department of Energy and Environmental Protection, Connecticut Port Authority

(CPA), U.S. Army Corps of Engineers, U.S. Coast Guard, and other state and federal agencies. The purpose of this communication and liaison should be to address matters affecting implementation of the Plan and to otherwise advance the Town's goals for beneficial use and conservation of the HMA.

3. Actions to ensure continued boating and navigation safety in the Harbor Management Area.

Acting in coordination with the State of Connecticut Harbor Master for East Lyme, East Lyme Police Department, U.S. Army Corps of Engineers, U.S. Coast Guard, Connecticut Department of Energy and Environmental Protection, and other agencies, the Harbor Management Commission should continue to support and promote boating and navigation safety in the HMA. To help ensure continued boating and navigation safety, the HMC may:

- A. RECOMMEND CHANGES TO TOWN ORDINANCES, AS NECESSARY, TO IMPLEMENT THE HARBOR MANAGEMENT PLAN, AND SUBMIT THE RECOMMENDATIONS TO THE BOARD OF SELECTMEN FOR CONSIDERATION AND ADOPTION.

Sec. 15-136 of the Connecticut General Statutes enables the Town to adopt local regulations regarding the operation of vessels in the HMA. In addition, Sec. 22a-113n of the General Statutes enables the Town to adopt ordinances to implement the Plan. Using this authority, the HMC may from time to time review the East Lyme Harbor Management Ordinance and other Town ordinances affecting the HMA and recommend—for adoption by the Board of Selectmen—any necessary changes to respond to changing conditions and circumstances and to otherwise implement the Plan. Any recommended changes should be based on, and be in conformance with, the applicable provisions of the Plan. In accordance with Sec. 22a-113m of the General Statutes, the HMC's recommendations for modifying Town ordinances are subject to the same review and approval process as amendments to the Plan.

- B. SUPPORT AND COOPERATE WITH STATE AND FEDERAL AGENCIES TO IDENTIFY AND ELIMINATE ANY UNAUTHORIZED ENCROACHMENTS IN THE HMA.

In accordance with the Plan, all unauthorized structures (including docks, floats, piers, bulkheads, pilings, and mooring tackle) and other work (including any unauthorized dredging or fill) extending into the federal navigation channel or into any other areas waterward of the Coastal Jurisdiction Line⁴ should be eliminated or otherwise corrected. Any existing unauthorized encroachments (those pre-dating the

⁴ Effective October 1, 2012, the DEEP's regulatory jurisdiction for proposed work in coastal waters is defined by the "coastal jurisdiction line" (CJL) defined in accordance with standards set forth by the DEEP and determined for the state's tidal waterbodies, including the waterbodies in the East Lyme HMA. Therefore, all proposed activities that would occur waterward of the CJL and which require DEEP approval are reviewed by the HMC for consistency with the Plan.

May 4, 1994 effective date of the Plan and identified either prior to, or after the effective date of the Plan) should be evaluated individually by the appropriate state and/or federal regulatory agency, with appropriate input from the HMC. Specific measures should be developed to remove or otherwise correct these existing violations.

The HMC should work in coordination with the appropriate state and federal authorities to ensure that any unauthorized encroachments constructed or occurring after the effective date of the Plan are eliminated or otherwise corrected by the offending party. The HMC should discourage the issuance of “after-the-fact” permits that would bring such violations into compliance, unless there are compelling, clearly demonstrated reasons to do so.

C. REVIEW AIDS TO NAVIGATION IN AND NEAR THE HMA.

With assistance from the Police Department and Harbor Master as necessary, the HMC should periodically assess the adequacy of federal aids to navigation in and near the HMA and transmit the results of this assessment to the appropriate office of the U.S. Coast Guard. The HMC may conduct an annual review of the number, type, locations, and condition of federal and nonfederal aids to navigation in the HMA.

The HMC should review the proposed placement of all nonfederal aids to navigation in the HMA and provide comments to the agencies responsible for regulating that placement. The HMC may recommend, purchase, and direct the placement (following receipt of necessary state and federal permits) of additional nonfederal aids to navigation, as needed, to mark restricted speed zones and otherwise maintain and improve safe and efficient navigation in the HMA.

D. DESIGNATE NAVIGATION FAIRWAYS TO BE KEPT FREE OF OBSTRUCTIONS.

Navigation fairways to be kept free of mooring tackle and any other obstructions may be designated by the HMC, in consultation with the Harbor Master, where necessary to ensure safe passage of recreational and commercial vessels to, from, through, and alongside the federal navigation channel and other boating activity areas (including docking, launching, and mooring areas) in the HMA.

E. EVALUATE THE APPROPRIATE EXTENT TO WHICH DOCKS, FLOATS, AND PIERS SHOULD EXTEND WATERWARD TO REACH NAVIGABLE WATER.

Evaluation of proposed in-water structures should be carried out in accordance with the Harbor Management Consistency Review Process (see no. 5 below), taking into consideration the littoral/riparian rights of waterfront property owners, the Public Trust Doctrine, existing conditions such as distance from shore to navigable water, location of the federal navigation channel, relevant state and federal resource protection laws including the Connecticut Coastal Management Act, Tidal Wetlands Act, and Structures and Dredging Act, and other relevant conditions. The HMC’s

recommendations concerning the appropriate distance that docks, floats, and piers should extend from shore to reach navigable water should be a principal consideration in the coastal permitting decisions of state and federal agencies.

The HMC should review proposals affecting the HMA to help ensure that all in-water structures are set back a safe and sufficient distance from the nearest channel, anchorage, or fairway boundary, in accordance with the policies and guidelines established in the Plan.

F. ENCOURAGE AND SUPPORT DREDGING OF THE FEDERAL NAVIGATION CHANNEL AS NEEDED.

The HMC should serve as the Town's principal advocate for maintenance dredging of the federal navigation channel and should work cooperatively with the USACE, DEEP, Connecticut Department of Transportation, and any other involved agencies, to ensure that maintenance dredging is carried out in the most timely manner needed to maintain safe and efficient navigation and the continued viability of water-dependent uses. The HMC should encourage and support initiation and completion of environmental assessments and other pre-dredging requirements, including funding requirements, so that any needed maintenance dredging may be carried out without undue delay.

G. RECOMMEND RESTRICTED SPEED ZONES AS NEEDED.

Restricted speed zones controlling the speed and wake of all power-propelled vessels in the HMA are established in the East Lyme Harbor Management Ordinance. In coordination with the Police Department and Harbor Master, and with consideration of public comments, the HMC may review the status of existing restricted speed zones and the marking of such zones in the HMA, and may recommend designation of new zones and/or modification of existing zones as may be needed to maintain public safety. The HMC's recommendations for restricted speed zones should be provided to the Board of Selectmen for adoption and inclusion in the Harbor Management Ordinance. (See the preceding section concerning responsibilities of the Board of Selectmen.)

4. Adopt and amend harbor management rules and regulations.

Pursuant to authority set forth in Art. II, Sec. 9 of the East Lyme Harbor Management Ordinance, the Harbor Management Commission may adopt and amend rules and regulations as needed to implement its responsibilities. All rules and regulations should be consistent with the Harbor Management Plan and any other Town ordinance requirements, and adopted according to the procedure specified in Art. II, Sec. 9 of the Harbor Management Ordinance.

To supplement the mooring and anchoring requirements established in Art. I, Section 6 of the Harbor Management Ordinance, the HMC may adopt rules and regulations concerning the mooring and anchoring of vessels in the HMA and minimum standards for mooring

tackle used in the HMA. The HMC should regularly review these rules and regulations in coordination with the Harbor Master and prepare any amendments that may be required to respond to changing conditions and circumstances.

5. Implement the Town's Harbor Management Consistency Review Process to review all proposals affecting the East Lyme Harbor Management Area for consistency with the Harbor Management Plan. (See Figure 7-1.)

In accordance with authority provided by Sec. 22a-113p of the Connecticut General Statutes and Art. II, Sec. 10 of the East Lyme Harbor Management Ordinance, the Harbor Management Commission should review proposals affecting the real property on, in, or contiguous to the HMA for consistency with the Plan.

Proposals subject to the Harbor Management Consistency Review Process include proposals submitted to or prepared by other Town agencies, and proposals submitted to or prepared by state and federal agencies, including the Connecticut Department of Energy and Environmental and U.S. Army Corps of Engineers, for work affecting the HMA.

As necessary, the HMC may utilize an application review committee of the HMC to review proposals subject to the Harbor Management Consistency Review Process and prepare recommendation for consideration by the HMC. The HMC may make a determination of a proposal's consistency with the Harbor Management Plan and transmit comments and recommendations concerning the proposal to the appropriate Town, state, or federal agency.

The HMC should review proposals for consistency with the Plan in accordance with an established procedure that may involve: 1) pre-application consultation with the proponent for informational and advisory purposes only, prior to the proponent's preparation and submittal of formal plans and applications to the appropriate permitting agencies; 2) review of initial plans and applications with the applicant and provision of the HMC's preliminary findings and recommendations to the appropriate agencies while preserving the HMC's right to amend or modify those findings and recommendations prior to any final decision by the authorizing agencies; and 3) final review and recommendations by the HMC at such time as the authorizing agency may issue a public notice seeking comments on the application or prior to any final decision by the authorizing agency on the application.

A. REVIEW OF PROPOSALS TO AND BY EAST LYME AGENCIES.

In accordance with authority provided by Sec. 22a-113p of the Connecticut General Statutes and Art. II, Section 10 of the East Lyme Harbor Management Ordinance, proposals affecting the real property on, in, or contiguous to the HMA submitted to or prepared by the Planning Commission, Zoning Commission, Zoning Board of Appeals, Water and Sewer Commission, Department of Public Works, Parks and Recreation Commission, Economic Development Commission, Conservation of Natural Resources Commission, and other Town agencies will be referred by these Town agencies to the HMC for review. Proposals subject to review include, but are not limited to:

FIGURE 7-1:**HARBOR MANAGEMENT CONSISTENCY REVIEW PROCESS**

- A Harbor Management Consistency Review Process is established to help ensure effective implementation of *The East Lyme Harbor Management Plan* (the Plan) and to provide coordinated, efficient, and comprehensive local review of proposed projects affecting the East Lyme Harbor Management Area (HMA).
- The Harbor Management Commission (HMC) will review, for consistency with the Plan, all proposals submitted to, or proposed by, Town of East Lyme agencies affecting the real property on, in, or contiguous to the HMA, as well as applications submitted to the Connecticut Department of Energy and Environmental Protection and U.S. Army Corps of Engineers, including, but not limited to:

All proposals requiring a Coastal Site Plan Review (i.e., submitted to the Planning and Zoning commission or Zoning Board of Appeals in accordance with the Connecticut Coastal Management Act and the East Lyme Municipal Coastal Program) and affecting property on, in, or contiguous to the HMA.

All activities involving placement of temporary or permanent structures (e.g., docks, floats, piers), dredging, filling, or other activities below (waterward of) the high tide line.

All proposed revisions or amendments to Town plans, rules, and regulations affecting the HMA and lands adjacent to the HMA, including, but not limited to, proposed revisions and amendments to the Zoning Regulations and Plan of Conservation and Development, regulations for use of Town water-access facilities, and regulations affecting wetlands and flood and erosion control.

- It is the responsibility of project applicants to provide the information necessary for the HMC to adequately assess: a) the potential impacts of the proposal on the HMA; and b) the consistency of such proposals with the Plan. Information required should be reasonable in scope and should be in balance with the size, scope, and potential positive and negative impacts of the proposal.
- The HMC will determine the consistency of proposals with the Plan and make that finding known to the appropriate Town, state, or federal authority within an established period of time. If no comment regarding the consistency of the proposed project is made by the HMC within the established time period, the proposal will be assumed to be consistent with the Plan.
- In accordance with Sec. 22a-113p of the Connecticut General Statutes, a 2/3 vote of the referring Town agency is required to approve a proposed project that has not received a favorable recommendation from the HMC, provided that the HMC's recommendation does not alter the authority of the agency having primary jurisdiction over the proposal.
- In accordance with Sec. 22a-113n of the Connecticut General Statutes, a recommendation of the HMC pursuant to the Plan shall be binding on any official of the State when making a regulatory decision affecting the HMA, unless such official shows cause why a different action should be taken.

- i. All proposals subject to the municipal process of Coastal Site Plan Review in accordance with the Connecticut Coastal Management Act and the Town's Municipal Coastal Program and affecting property on, in, or contiguous to the HMA. (Exceptions include proposals to construct or modify single or two-family residences located within a residential zoning district that do not affect or interfere with an existing water dependent use.)
- ii. All activities involving placement of temporary or permanent structures (e.g., docks, floats, piers) dredging, filling of aquatic areas, or other activities waterward of the Coastal Jurisdiction Line.
- iii. All proposed revisions and amendments to Town plans, rules, regulations, and ordinances affecting the HMA and lands contiguous to the HMA, including, but not limited to, proposed revisions and amendments to the Zoning Regulations and Plan of Conservation and Development, regulations for use of Town beaches and boat launching facilities, and regulations governing tidal wetlands and flood and erosion control.

As required by Sec. 22a-113p of the Connecticut General Statutes and Art. II, Section 10 of the Harbor Management Ordinance, each Town agency must refer all proposals subject to the Harbor Management Consistency Review Process to the HMC at least thirty-five days prior to any Town hearing on the proposal. If no hearing is to be held, the Town agency must notify the HMC at least thirty-five days prior to taking any final action on the proposal.

The HMC should review referred proposals for consistency with the Harbor Management Plan and provide comments and recommendations to the approving agency within the thirty-five day period and prior to or during any public hearing on the proposal. If a public hearing is not held, the HMC should provide comments prior to final action by the approving agency

When reviewing a proposal for consistency with the Plan, the HMC should consider whether the proposal is consistent with the Plan's goals, objectives, policies, guidelines, and recommended water-use plans.

The approving agency must consider the comments and recommendations of the HMC. Pursuant to Sec. 22a-113p of the Connecticut general Statutes, a two-thirds vote of all the members of the Town agency having authority to act on the proposal shall be required to approve a proposal that has not received a favorable recommendation from the HMC. Failure of the HMC to provide a recommendation to the approving agency will be considered as an approval of the proposal.

It should be the responsibility of the project applicant to provide the HMC with the information necessary to adequately assess the potential impacts of the applicant's proposal on the HMA and the consistency of such proposal with the Plan. The

HMC may require an applicant to provide specific information addressing the consistency of the proposal with the Plan. Any information required should be reasonable in scope and in balance with the size, scope, and potential impacts of the proposal.

With regard to any proposal reviewed for consistency with the Plan, the HMC may provide recommendations for approval or denial along with written comments. Recommendations may include suggested modifications or conditions of approval that would render an otherwise unacceptable proposal consistent with the Plan. Recommendations by the HMC, including suggested modifications and conditions, should be prepared with reference to relevant sections of the Plan.

All applicants whose proposals are reviewed by the HMC should be provided an opportunity to describe the proposal to the HMC and answer any questions posed by the HMC. Members of the public should be afforded an appropriate opportunity to speak in favor of or in opposition to a proposal as it relates to the Plan.

In addition, just as the activities of private individuals and organizations should be consistent with the Plan, so should proposals prepared by Town agencies. Each Town agency should work cooperatively with the HMC when developing any plans for Town-sponsored projects or other initiatives that may affect the real property on, in, or contiguous to the HMA. Plans for Town-sponsored initiatives that may affect the HMA should be submitted to the HMC for review as part of the Harbor Management Consistency Review Process.

The HMC may coordinate its review procedures with each referring/approving Town agency. Each agency has specific legal requirements and administrative procedures with regard to: time available between official receipt of a proposal and agency action on the proposal; frequency of meetings; and other considerations that may affect coordination with the HMC. The HMC may develop review procedures that are specific to each referring/approving agency. In addition, the HMC may require that a specified number of copies of proposals be provided to the HMC, either directly by the applicant or by the approving agency.

The HMC may establish administrative procedures, rules, and regulations to guide the Harbor Management Consistency Review Process. (See no. 4 above.)

B. REVIEW OF PROPOSALS TO AND BY STATE OF CONNECTICUT AGENCIES.

Various bureaus and divisions of the DEEP are responsible for implementing state regulatory programs that regulate activities affecting the real property on, in, or contiguous to the HMA. Most prominently, all proposals involving filling of aquatic areas, dredging, placement of structures, and other actions waterward of the Coastal Jurisdiction Line in the HMA are subject to regulatory programs administered by the DEEP's Land and Water Resources Division (LWRD).

Coastal permitting requirements established by the LWRD require applicants to consult with and notify the HMC during the permitting process. Applicants for LWRD permits are required to review their proposed plans and descriptions of their proposals with the HMC prior to submitting a formal application to the LWRD; applicants for LWRD Certificates of Permission are required to submit their applications to the HMC at the same time those applications are submitted to the LWRD, and General Permit registrants are required to notify the HMC of their General Permit registrations. The HMC will review all of these proposals affecting the HMA in a manner similar to that described above with respect to Town agencies; consider the proposals' consistency with the Plan; and provide appropriate comments and recommendations to the DEEP. In accordance with Sec. 22a-113n of the Connecticut General Statutes, a recommendation of the HMC pursuant to the content of the Harbor Management Plan shall be binding on any official of the State of Connecticut when making regulatory decisions or undertaking or sponsoring development affecting the HMA, unless such official shows cause why a different action should be taken.

When reviewing any proposal for a regulated activity submitted to the DEEP, the HMC should ensure that sufficient information is provided to enable the HMC to make an informed decision on the consistency of the proposal with the Plan.

Also, any proposal prepared by a state agency that would affect the HMA should be designed with consideration of the Plan and reviewed by the HMC for consistency with the Plan.

The HMC should establish a formal process to guide its review of proposals to and by State of Connecticut agencies.

It is recommended that applicants for LWRD structures, dredging, and fill permits and tidal wetlands permits should provide their applications to the HMC at the same time as they submit those applications to the LWRD. The HMC should be provided with a copy of any authorization issued by the DEEP for filling aquatic areas, dredging, or placement of structures in the HMA.

C. REVIEW OF APPLICATIONS TO THE CORPS OF ENGINEERS

All proposals involving filling, dredging, or structures waterward of the Mean High Water line are subject to federal regulatory programs administered by the USACE. This federal review is conducted in coordination with the LWRD's coastal permitting process described above, and in accordance with the USACE's Programmatic General Permit for the State of Connecticut. (See Chapter Two of the Plan.) As a result of this coordination, the HMC typically does not need to conduct a separate review of a proposal subject to the USACE's coastal regulatory programs, since that same proposal will be subject to the LWRD's review. Instead, the HMC's comments and recommendations to the LWRD regarding a specific proposal affecting the HMA should be provided to the USACE for consideration in the federal review process.

6. Ongoing examination of the effectiveness of the Harbor Management Plan and conditions in the East Lyme Harbor Management Area; preparation of proposed amendments to the Plan and Town ordinances as necessary.

The Plan should be amended as needed to respond to changing conditions and circumstances affecting the HMA. Throughout the year, members of the HMC should observe conditions in the HMA and assess how well the Plan is functioning. Any identified issues may be discussed at the HMC's regularly scheduled monthly meetings. Town officials and the general public should be encouraged to attend HMC meetings and express any comments regarding the Plan and its effectiveness.

A. ANNUAL REVIEW

Each year, preferably at the close of the boating season, the HMC may hold a meeting to review the Plan and consider if any changes are appropriate. This review should include consideration of:

- Plan goals and objectives;
- General policies applicable to the entire HMA;
- Water use plans and recommendations for specific areas; and
- Organization, responsibilities, and procedures for Plan implementation.

The HMC should also consider any physical or institutional changes affecting the HMA that may have taken place during the preceding year, including new development, development proposals, physical changes caused by storms and other forces of nature, improvement or degradation in environmental quality and any new plans or policies established by Town, state, or federal agencies.

The HMC should consider any requests for Plan amendments that may be presented by stakeholders with an interest in the HMA, including Town residents, business owners, and private groups and organizations. The HMC should also consider any requests by state and federal agencies, including the Connecticut Department of Environmental Protection, Connecticut Port Authority (CPA), and U.S. Army Corps of Engineers.

B. PLAN AMENDMENT

The HMC should pursue amendments to the Plan according to the following procedure.

- a) Prepare recommended changes to the Plan, including any changes in the text, maps, or other elements of the Plan.
- b) Obtain public comments on the proposed changes.
- c) Submit the proposed changes to the USACE for review and to the DEEP and CPA for review and approval.

- d) Make any necessary changes to the Plan document following review of public comments and review of comments from the USACE, DEEP, and CPA.
- e) Adopt the changes.
- f) Submit the changes to the Board of Selectmen for adoption by the Town following a public hearing.

A similar procedure should be followed for any changes to applicable Town ordinances that may be needed to implement certain provisions of the Plan.

The HMC should not be restricted to any specific time period for making changes to the Plan. If unusual circumstances arise that require modification of the Plan, the HMC may initiate the review and revision process at any time.

C. PLAN ADDENDUM

As an alternative to rewriting and reprinting the Plan each time the Plan may be amended, the HMC may prepare a Plan Addendum to summarize the significant changes that may have taken place, and to include any amendments to the Plan's provisions. As its resources may allow, the HMC should periodically publish a revised Plan document to incorporate updated descriptions of all relevant conditions that have changed since the Plan was adopted or last amended, as well as any Plan amendments that may have been adopted.

7. Review of actions by the Harbor Master.

Any person aggrieved by a decision of the Harbor Master may present his or her grievance to the Harbor Management Commission. At a public meeting, the HMC may review the decision of concern and provide an opportunity for all involved parties to present relevant information.

While the Connecticut General Statutes provide no authority for harbor management commissions to overturn harbor master decisions or to act as appeals boards with regard to those decisions (see the previous section concerning responsibilities of the Board of Selectmen), the HMC may hear any local concerns that may be expressed with regard to actions by the Harbor Master. The HMC should attempt to resolve those concerns without usurping the Harbor Master's authority and then, if necessary, bring those concerns to the attention of the Connecticut Department of Energy and Environmental Protection or other appropriate state agency or official for any corrective action that may be necessary.

8. Advisory participation in all Town-supported planning and development initiatives affecting the Harbor Management Area.

The Harbor Management Commission may provide advisory comments and recommendations to any Town agency initiating a planning, development, or other initiative affecting the real property on, in, or contiguous to the HMA. The HMC may provide information on how the proposed initiative can be planned and implemented for consistency with the

Harbor Management Plan and how the initiative may have the most positive impact on the HMA. The HMC's advisory comments should help to avoid, before the proposed initiative is finalized, any potential harbor management issues or conflicts. Another important purpose of the HMC's involvement should be to help maintain cooperation and coordination among all Town agencies with authorities that directly and indirectly affect the HMA.

9. Support and promotion of initiatives to increase public interest and awareness.

Effective management of the Harbor Management Area and protection of the HMA's environmental quality requires ongoing public support and involvement. In addition to providing a continuing forum for expression of public comments during its regularly scheduled and special meetings, the Harbor Management Commission may support and promote special programs and events to encourage public interest and community involvement in matters pertaining to the HMA and Harbor Management Plan.

The HMC may pursue initiatives to inform and educate boaters and other users of the HMA about the Plan and the laws, rules, regulations, and ordinances concerning use of the HMA. The HMC may be a source of information to persons planning activities that would affect the HMA and who are not familiar with requirements of state and federal permitting programs and provisions of the Plan.

The HMC may encourage and support public outreach programs regarding the proper use of the HMA and protection of coastal resources in accordance with the Plan. Each year the HMC may hold a "State of the Harbor" meeting to provide information to the public concerning the Plan and HMA and to hear public comments concerning the Plan and HMA.

The HMC may prepare informational materials for public distribution. Those materials may be used to highlight the major elements of the Plan; provide information on HMA laws, rules, regulations, and ordinances; promote local attractions for visiting boaters; and provide information on other HMA-related topics.

10. Administration and allocation of funds for harbor management.

Sec. 22a-113s of the Connecticut General Statutes authorizes establishment of a special Town account to be used specifically for maintenance and improvement of the Harbor Management Area. This statute also authorizes the Harbor Management Commission to propose—for adoption by the Board of Selectmen—a fee schedule for mooring and anchorage permits and any activity within the scope of the Harbor Management Plan. (See the previous section concerning responsibilities of the Board of Selectmen.) Collected fees must be deposited into the account, established following adoption of the Plan in 1994, and used for maintenance and improvement of the HMA for the public and for necessary expenses for personnel and equipment directly related to the functions of the HMC and the Harbor Master or Deputy Harbor Master.

When considering potential fees for activities within the scope of the Plan, the HMC may, to the extent authorized by the Connecticut General Statutes and Town Code, give consideration to the feasibility of establishing dockage and berthing fees to the extent that such

fees would make a significant contribution to maintenance and improvement of the HMA for the public and provide for equitable distribution of harbor management fees among all users of the HMA.

The HMC should regularly review the status of the harbor management account and report to the Board of Selectmen on the use and allocation of all funds from the account as necessary.

A. POTENTIAL SOURCES OF FUNDS

The HMC may evaluate potential sources of funds to be used for harbor management purposes and establish procedures to generate operating funds. Potential sources of funds to be considered include but are not limited to:

- Mooring permit fees;
- Fees for other activities within the scope of the Plan;
- Town investment and management of Harbor funds;
- Appropriations from the Town's General Fund;
- Fines for violations of Town ordinances, rules, and regulations pertaining to the HMA;
- Donations; and
- Grants of funds from state and federal governmental agencies and private sources.

B. EXPENDITURE OF FUNDS

Pursuant to Art. II, Section 9 of the Harbor Management Ordinance, the HMC is responsible for preparing an annual operating budget for presentation to the Board of Selectmen. The operating budget should include a section reflecting estimated revenues and a section covering requested expenses by project or activity.

Items for which the Commission may need to expend funds include, but are not limited to:

- Administration of mooring permits;
- Office equipment and supplies;
- Secretarial services;
- Postage and mailings;
- Printing and distribution of the Harbor Management Plan and Ordinance;
- Printing and photocopying;
- Legal advertisements;
- Telephone expenses;
- Preparation of informational/educational materials regarding the Plan and HMA;
- Conducting additional investigations and studies in support of the Plan;
- Compensation to the Harbor Master or Deputy Harbor Master for duties specified in the Plan;

- Emergency removal of unsafe or abandoned structures, including mooring tackle and vessels;
- Harbor improvement projects consistent with the Plan;
- Investigation and studies of HMA conditions;
- Conferences and other educational programs that HMC members may attend;
- Purchase and maintenance of aids to navigation; and
- Fees for consultants and other assistants retained to assist with Plan implementation.

The HMC should regularly review the status of its operating budget throughout the year.

11. Maintenance of appropriate information and materials pertaining to the East Lyme Harbor Management Area.

The Harbor Management Commission should maintain appropriate records of its decisions and, in coordination with the Town Clerk, organize and maintain other information pertaining to the HMA. The information, maintained in the Town Hall, should serve as a source of information on existing and historic conditions in the HMA and may be used by the HMC when making decisions pertaining to the HMA.

12. Pursuit of grants for harbor management purposes.

The Harbor Management Commission, in coordination with other Town agencies as necessary, may pursue governmental and private grants to help fund harbor improvement projects. The Plan provides the basis for a number of projects eligible for state and federal grants, including projects to improve access to the HMA, enhance environmental resources, increase public awareness of the natural values of the HMA, and improve harbor infrastructure.

13. Ongoing study of the East Lyme Harbor Management Area to provide useful information for decision-making and other harbor management purposes.

Conditions in the HMA, particularly conditions pertaining to uses and activities in the HMA and the institutional framework for managing the HMA, are constantly changing. Some of the changes that will occur will affect the provisions of the Harbor Management Plan. As a result, it will be necessary for the Harbor Management Commission to continue to monitor conditions in the HMA for the purpose of identifying any changes that may influence future management decisions and programs. The HMC should also encourage and support scientific studies and other investigations, including investigations by educational institutions and students, which provide useful information for advancing the Town's harbor management goals.

The HMC's continuing investigations should be designed to increase understanding of natural processes and human actions affecting the HMA and to increase understanding of harbor management-related issues and concerns. These investigations should be applied to

help provide a solid basis for management decisions and for any modifications of the Plan that may be necessary in the future.

14. Employment of consultants and other assistants, as needed, to assist with implementation of the Harbor Management Plan.

Due to time and budget constraints, the Town agencies with expertise to assist the Harbor Management Commission may not always be able to provide the desired level of support. Also, implementation of aspects of the Plan may require the HMC to apply expertise and services that other Town agencies may not be able to provide. Sec. 22a-113l of the Connecticut General Statutes and Art. II, Sec 8 of the East Lyme Harbor Management Ordinance empower the HMC to enter into contracts, retain consultants and other assistants, and receive and expend funds for harbor management purposes. The HMC may therefore hire consultants and other assistants as necessary to assist with its powers, duties, and responsibilities pursuant to Plan implementation. When hiring consultants and other assistants, the HMC may allocate funds from the Town's Harbor Management Account.

15. Encouragement of presentation and discussion of all public concerns, including those of Town residents, business owners, and boaters, related to the Harbor Management Area and Harbor Management Plan.

The Harbor Management Commission should provide persons and organizations with harbor management-related questions, concerns, or suggestions an opportunity to express their views. Providing a continuing forum for the expression of public concerns during its regularly scheduled and special meetings should help the HMC identify changing conditions and circumstances affecting the HMA. This forum will also help develop and maintain public awareness of the HMA and to maintain a base of public support for the Town's harbor management initiatives. Each year, the HMC may hold a special public meeting devoted to hearing the concerns, questions, and thoughts of Town residents, waterfront property owners, water-dependent facility operators, and others concerning the HMA and Plan.

16. Provision of recommendations to the Governor for appointment of the State of Connecticut Harbor Master and Deputy Harbor Master for East Lyme.

The Harbor Master and Deputy Harbor Master are ~~is~~ appointed by the Governor pursuant to the Connecticut General Statutes for a three-year terms and until a successor is appointed and qualified. Sec. 15-1 of the General Statutes requires that the appointment of a harbor master and deputy harbor master for any municipality with an adopted harbor management plan shall be made by the Governor from a list of not less than three nominees submitted by the municipality's harbor management commission. Accordingly, prior to expiration of the terms of service of the Harbor Master and Deputy Harbor Master, the HMC should provide the Governor with a recommendations for appointments to these ~~this~~ positions.

17. Outreach to other municipalities to address matters of common interest.

The Harbor Management Commission should establish and maintain cooperative relationships with agencies in other towns, including the Waterford and Old Lyme harbor management commissions, to address matters of common interest, including, but not limited to, matters concerning boating safety, mooring administration, public access, and water quality, and to otherwise coordinate harbor management initiatives in the most efficient and coordinated manner.

OTHER TOWN AGENCIES

In addition to the Harbor Management Commission, other Town agencies have responsibilities that affect the East Lyme Harbor Management Area. These include the Planning and Zoning commissions, Conservation of Natural Resources Commission, Parks and Recreation Commission, Police Department, Fire Department, Water and Sewer Commission, Economic Development Commission, Public Works Department, and other Town agencies. (See Chapter Two of the *East Lyme Harbor Management Plan*.)

The Plan does not alter the authorities or regulations of Town agencies. Plan implementation, however, requires that all Town agencies with harbor management-related responsibilities carry out those responsibilities, to the extent required and permitted by law, in a manner consistent with the provisions of the Plan. The Harbor Management Consistency Review Process (see Figure 7-1) helps to ensure this consistency. Town agencies other than the HMC have the following basic responsibilities for implementation of the Plan.

1. Referral of proposals affecting the East Lyme Harbor Management Area to the HMC for review as part of the Harbor Management Consistency Review Process.

In accordance with Sec. 22a-113p of the Connecticut General Statutes and Article II, Section 10 of the East Lyme Harbor Management Ordinance, each Town agency with authority to approve a proposal affecting real property on, in, or contiguous to the East Lyme HMA will refer the proposal to the HMC for review. The application will be provided to the HMC at least 35 days prior to any public hearing on the proposal or, absent a hearing, prior to any final action by the approving Town agency. As required by Sec. 22a-113p of the Connecticut General Statutes and the Harbor Management Ordinance, the Town agency authorized to act on the proposal will consider the recommendations of the HMC. A two-thirds vote of all the members of the Town agency authorized to act on the proposal shall be required to approve a proposal that has not received a favorable recommendation from the HMC.

2. Design of Town proposals that would affect the Harbor Management Area for consistency with the Harbor Management Plan; referral of Town proposals to the Harbor Management Commission for review.

Just as proposals submitted to Town agencies for approval should be consistent with the Harbor Management Plan, so should proposals prepared by the Town. Each Town agency

should consult with the HMC when developing any Town plans or other initiatives that may affect the HMA. Town initiatives affecting the real property on, in, or contiguous to the HMA should be submitted to the HMC as part of the Harbor Management Consistency Review Process. The purpose of this review should be to ensure that Town-prepared proposals are consistent with the Plan and contribute to achievement of the Plan's provisions. The review should also serve to enhance communication and coordination among the involved Town agencies for harbor management purposes.

3. Implementation of agency responsibilities in a manner consistent with the East Lyme Harbor Management Plan and in a manner that contributes to Plan implementation.

The following Town agencies should carry out their following responsibilities affecting the Harbor Management Area in a manner consistent with the Harbor Management Plan and in a manner that contributes to Plan implementation.

- Planning Commission: Amendment, as necessary, and implementation of the East Lyme Plan of Conservation and Development as that plan affects the beneficial use and conservation of the HMA and waterfront.
- Zoning Commission: Amendment, as necessary, and implementation of the East Lyme Zoning Regulations as those regulations affect waterfront properties; Coastal Site Plan Review of most development activities in the Town's coastal area.
- Police Department: Enforcement of Town and state boating laws, regulations, and ordinances, and coordination of emergency response as necessary with the Fire Department, State of Connecticut Harbor Master, Connecticut Department of Energy and Environmental Protection, U.S. Coast Guard, and municipalities with jurisdictions adjoining the HMA; police patrols and law enforcement at waterfront locations; assistance with coordination and monitoring at special water and waterfront events; assistance to the Harbor Master for maintaining safe and efficient operation of the HMA.
- Niantic and Flanders Fire Departments: Coordination of emergency response activities, including response to oil and chemical spills, with Police Department, Harbor Master, DEEP, U.S. Coast Guard, and municipalities with jurisdictions adjoining the HMA.
- Department of Public Works: Design and implementation of the Town's storm-water and wastewater collections and treatment system; maintenance and construction of public facilities providing public access to the HMA; assistance for disposal of abandoned and derelict vessels and mooring tackle, as needed.
- Economic Development Commission: Preparation and implementation of any economic development proposals affecting the HMA.

- Parks and Recreation Commission and Department: Management of all waterfront parks, beaches, and other recreational facilities providing public access to the HMA, including, but not limited to, Cini Memorial Park, Niantic River Boardwalk, Railroad Beach, Niantic Bay Boardwalk, Hole-in-the-Wall Beach, McCook Point Park, and the Grand Street Boat Launch.
- Conservation of Natural Resources Commission: Implementation of responsibilities concerning development, conservation, supervision, and regulation of natural resources in the Town, including water resources,
- Zoning Board of Appeals: Consideration of requests for zoning variances and coastal site plan reviews for variance requests within the coastal area.

THE HARBOR MASTER

The State of Connecticut Harbor Master for East Lyme is appointed by the Governor of Connecticut pursuant to the Connecticut General Statutes and is responsible for the general care and supervision of the East Lyme Harbor Management Area and its navigable waterways. The Harbor Master is subject to the direction and control of the Connecticut Commissioner of Energy and Environmental Protection. Principal duties of the Harbor Master are included in Sections 15-1 through 15-9 and other sections of the Connecticut General Statutes. The Harbor Master has the following responsibilities for implementation of the *East Lyme Harbor Management Plan*.

1. Conducting all duties in a manner consistent with the Harbor Management Plan.

Sec. 15-1 of the Connecticut General Statutes requires that “harbor masters or deputy harbor masters shall exercise their duties in a manner consistent with any plan adopted pursuant to Sec. 22a-113m for a harbor over which they have jurisdiction.” Actions of the Harbor Master pursuant to his or her responsibilities established in the Connecticut General Statutes therefore must be consistent with the provisions of the Plan.

2. Cooperation and coordination with the Harbor Management Commission and assistance to the HMC with implementation of the Harbor Management Plan.

As authorized by Sec. 22a-113k of the Connecticut General Statutes and established by the East Lyme Harbor Management Ordinance, the Harbor Master is a nonvoting, ex-officio member of the HMC. When exercising responsibilities for mooring administration and conducting other statutory duties for safe and efficient operation of the HMA, the Harbor Master should work cooperatively with the HMC and otherwise assist the HMC with implementation of the Plan. The Harbor Master should attend the HMC’s monthly meetings, provide a monthly report of his or her activities to the HMC, and discuss issues, occurrences, and events pertinent to the business of the HMC as necessary. In addition, the Harbor Master should attend special meetings that may be held by the HMC to report on his or her activities and address questions raised by the public. The Harbor Master also should attend meetings of the HMC’s committees and provide assistance to those committees as necessary to address matters affecting safe and efficient operation of the HMA.

3. Implementation of requirements for administration of all mooring locations in the Harbor Management Area.

The Harbor Master is responsible for: issuing mooring permits and assigning mooring locations; maintaining records on mooring locations, mooring tackle, moored vessels and owners/operators of moored vessels; placement of mooring tackle; inspection of mooring tackle; revoking mooring permits as may be necessary; and removing mooring tackle, if necessary. All mooring-related activities of the Harbor Master must be consistent with the Harbor Management Plan, relevant sections of the Connecticut General Statutes, Art. I, Sec. 6 of the East Lyme Harbor Management Ordinance, and any rules and regulations for mooring and anchoring vessels that may be adopted by the Harbor Management Commission.

A. ISSUANCE OF MOORING PERMITS, ALLOCATION OF MOORING LOCATIONS, AND COLLECTION OF MOORING FEES

In accordance with Sec. 22a-113r of the Connecticut General Statutes and Art. I, Sec. 6 of the Harbor Management Ordinance, the Harbor Master must approve the use of all mooring locations in the HMA, and shall issue a permit for each approved mooring location.

The Harbor Master should make use of a mooring permit application form that allows for the collection of information on the vessel and the vessel's owner/operator as well as any additional information considered necessary by the Harbor Master and HMC. If the application is approved, the Harbor Master will send a permit to the applicant.

The Harbor Master should determine the allocation of all individual-private mooring locations in the HMA. Location preferences of permit applications should be accommodated to the extent possible, but the Harbor Master should also consider: 1) the capacity of various HMA locations to accommodate moorings in a safe and environmentally sound manner, 2) vessel size, and 3) any commercial mooring locations for which state and federal permits have been issued. In considering the allocation of mooring locations, the Harbor Master should take into consideration requirements for navigation safety and potential adverse environmental impacts, including potential impacts on shellfish resources.

Mooring permits should be issued by the Harbor Master to all applicants with a properly registered vessel, provided sufficient mooring locations are available. The Harbor Master should not discriminate in assigning mooring locations on the basis of Town residence. Holders of a valid mooring permit should be given preference over new applicants for mooring locations and renewal of the permit the following year. To the extent possible, mooring locations should be assigned to shorefront property owners who apply for a mooring location offshore of their properties, consistent with the property owners' littoral rights of access to the HMA. Mooring assignments and permits should be valid for a period of not more than one year.

Pursuant to Sec. 22a-113 s of the General Statutes, the Harbor Master will collect any duly established mooring permit fee—proposed by the HMC and adopted by the Board of Selectmen—from any person, association, corporation, or any other group receiving a new or renewed permit for a mooring location in the HMA. The Harbor Master should prepare transmittal forms and deposit the collected mooring permit fees into the East Lyme Harbor Management Account established by the Town pursuant to Section 22a-113s of the General Statutes. The Harbor Master shall provide a regular accounting of any collected fees to the HMC.

B. MAINTENANCE OF RECORDS

The Harbor Master should maintain complete and accurate records of all mooring locations and moored vessels, mooring applications, and collected permit fees in compliance with Freedom of Information Act requirements. This information should be maintained in such a manner that information can easily be obtained by the HMC and Harbor Master with regard to any individual mooring, vessel, or owner and also with regard to all mooring locations. A list of the names of all mooring permit holders should be available upon request in an appropriate Town office for public inspection. Any waiting list of applicants should be available for public inspection upon request. As feasible, a computerized database of mooring records should be maintained.

C. MOORING TACKLE PLACEMENT

The Harbor Master should exercise approval authority over the placement of all mooring tackle to ensure its proper location in suitable areas. On-site supervision of mooring tackle placement may be delegated by the Harbor Master to a Qualified Inspector. The Harbor Master may direct the relocation of mooring tackle from previously approved locations where necessary to maintain public safety and the most efficient use of available mooring locations.

D. INSPECTION OF MOORING TACKLE

Each person mooring a vessel in the HMA should be responsible for ensuring that the mooring tackle used is adequate for safely securing the moored vessel. All mooring tackle shall be inspected at least once every three years to ensure conformance with any minimum mooring tackle specifications that may be established by the HMC. The Harbor Master shall prepare a list of individuals and businesses approved by the Harbor Master as qualified to conduct inspections of mooring tackle and may provide that list to all mooring permit holders. The Harbor Master will ensure that all such Qualified Inspectors are knowledgeable of all pertinent rules, regulations, ordinances, and standards concerning mooring tackle inspection in the HMA. Each mooring permit holder must submit documentation to the Harbor Master, to the satisfaction of the Harbor Master, that the required mooring tackle inspection has been performed and that the tackle meets or exceeds the minimum standards. The Harbor Master shall maintain complete and accurate records regarding mooring tackle inspection. More frequent mooring tackle inspections

may be carried out at the discretion of the Harbor Master as necessary to maintain safe and efficient operation of the HMA. Any mooring tackle found to be inadequate should be replaced by the mooring permit holder at the direction of the Harbor Master.

E. REVOCATION OF MOORING PERMITS

The Harbor Master may revoke a mooring permit under certain conditions, including failure to comply with mooring requirements specified in Art. I, Section 6 of the East Lyme Harbor Management Ordinance and any Rules and Regulations pertaining to the mooring and anchoring of vessels as may be adopted by the HMC. Mooring permits may be revoked for failure to maintain a properly registered vessel; failure to maintain adequate mooring tackle; failure to use the mooring; and other violations determined by the Harbor Master and HMC.

4. Assistance to the East Lyme Police Department and other law enforcement authorities, as necessary and appropriate, with regard to enforcement of Town, state, and federal laws and regulations applicable to safe and efficient use of the Harbor Management Area.⁵

The Harbor Master should provide appropriate assistance to Town, state, and federal law enforcement agencies, as needed, to maintain boating and navigation safety in the HMA. The Harbor Master's responsibility in this regard shall be carried out in a manner consistent with all applicable federal, state, and Town laws, regulations, and ordinances, including but not limited to, Sec. 15-154 of the Connecticut General Statutes and the East Lyme Harbor Management Ordinance. The Harbor Master should call upon the East Lyme Police Department or state or federal law enforcement authority for assistance in all situations involving potential arrest or confrontation. The Harbor Master should advise the Police Department, DEEP, USACE, and/or U.S. Coast Guard, as necessary, of any problems concerning enforcement of Town, state, and/or federal laws, regulations, and ordinances affecting the HMA. In addition, the Harbor Master may request assistance from the Police Department when necessary for enforcement of any order by the Harbor Master for the stationing of vessels in the HMA pursuant to Sec. 15-8 of the Connecticut General Statutes.

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Under Sec. 15-154 of the General Statutes, harbor masters are empowered to enforce state boating laws within their jurisdiction, except that harbor masters who are not certified law enforcement officers may not enforce the "boating under the influence" laws. Since no police training is provided to Connecticut harbor masters, the Connecticut Department of Energy and Environmental Protection advises harbor masters who have not been certified as law enforcement officers to report violations of law to the local police department or other law enforcement authorities rather than become directly involved with arrests or confrontations with violators.

5. Implementation of the Connecticut boating statutes and regulations, as appropriate, including statutes and regulations concerning removal of abandoned and derelict vessels.

Consistent with all applicable federal, state, and Town laws, regulations, and ordinances including, but not limited to, Sec. 15-154 of the Connecticut General Statutes, the Harbor Master is responsible for implementing certain State of Connecticut boating statutes and regulations as they relate to use of the Harbor Management Area, and for communication of these statutes and regulations, as necessary, to the public. In addition, as necessary for maintaining safe and efficient use of the HMA, the Harbor Master may assist with interpretation of the statutes and regulations as they apply to the HMA. Those responsibilities should be carried out in collaboration with the HMC, Police Department, Connecticut Department of Transportation, Department of Energy and Environmental Protection, and other involved agencies.

In accordance with Sec. 15-140c of the Connecticut General Statutes, any vessel ‘not moored, anchored or made fast to the shore and unattended for a period greater than 24 hours, or left [upon private property] without the consent of said property owner for a period greater than twenty-four hours’ shall be presumed abandoned. Acting in coordination with the HMC, Police Department, and other appropriate agencies, the Harbor Master is authorized to enforce the provisions of this statute in the HMA. In accordance with Sec. 15-140c of the General Statutes, all expenses necessarily incurred in the removal of an abandoned vessel shall be a lien upon such vessel.

6. Operation of a vessel for conducting duties of the Harbor Master.

The Harbor Master may operate a vessel for the purpose of conducting the Harbor Master’s duties for maintaining safe and efficient operation of the Harbor Management Area. Such vessel, if available, will be appropriately marked and readily identifiable when operated for that purpose. As available, the Harbor Master vessel may be operated for the purpose of responding to boating and navigation issues in the HMA. When operating the Harbor Master vessel, the Harbor Master or any Deputy Harbor Master who may be appointed by the Governor will wear an appropriate uniform that readily identifies them as officers of the State of Connecticut performing the duties of the Harbor Master and Deputy Harbor Master.

7. Provision of information concerning boating laws, regulations, and ordinances, the Harbor Management Plan, and other harbor management topics to the general public.

The Harbor Master should assist the Harbor Management Commission with provision of information to the general public concerning applicable boating laws, regulations, and ordinances; conditions in the Harbor Management Area; provisions of the Plan; rules and regulations adopted by the HMC; and other information intended to maintain safe and efficient operation of the HMA and increase public awareness and support for safe and efficient operation of the HMA.

8. Ongoing communication with Town, state, and federal agencies concerning the Harbor Management Area.

In addition to communication and coordination with the Harbor Management Commission, Police Department, and other Town agencies, the Harbor Master should maintain regular communication and liaison, as necessary, with the divisions and units of the Department of Energy and Environmental Protection, U.S. Army Corps of Engineers, U.S. Coast Guard, and other state and federal agencies. The purpose of this communication and liaison should be to address matters concerning safe and efficient operation of the HMA.

9. Supervision of the Deputy Harbor Master.

In accordance with Sec. 15-1 of the Connecticut General Statutes, the Governor may appoint a Deputy Harbor Master for East Lyme with authority to exercise all of the powers and duties of the Harbor Master. The Deputy Harbor Master should assist the Harbor Master and serve at the direction of the Harbor Master. Pursuant to Sec. 15-3 of the General Statutes, the Harbor Master will supervise the actions of the Deputy Harbor Master. The Harbor Master may, in the interest of maintaining safe and efficient operation of the HMA, assign specific responsibilities to the Deputy Harbor Master.

10. Review and comment on proposals for dredging, filling, or placement of structures in the Harbor Management Area.

The Harbor Master may review all proposals for dredging filling of aquatic areas, and placement of in-water structures in the HMA. The Harbor Master's review may address the effect of the proposed activity on the safe and efficient operation of the HMA. The Harbor Master will provide comments on those applications to the Department of Energy and Environmental Protection, U.S. Army Corps of Engineer, and other regulatory agencies as appropriate. The Harbor Master's review of proposals affecting the HMA will be carried out in coordination with the HMC's Harbor Management Consistency Review Process.

11. Assistance to the Harbor Management Commission for preparation of the HMC's annual operating budget.

The Harbor Master should provide data on expenses directly related to the function of the Harbor Master and Deputy Harbor Master, and any other information for the purpose of assisting the HMC with preparation of the HMC's annual operating budget.

STATE AND FEDERAL AGENCIES

State and federal agencies with authorities pertaining to the East Lyme Harbor Management Area include, but are not limited to, the Connecticut Department of Energy and Environmental Protection, Connecticut Port Authority, and U.S. Army Corps of Engineers. (See Chapter Two of the *East Lyme Harbor Management Plan*.) To the extent permitted by law, these and other state and federal agencies should carry out their responsibilities in a manner consistent with the Plan and generally cooperate with the Harbor Management Commission for Plan implementation.

1. Review and approval of amendments to the Harbor Management Plan.⁶

Sec. 22a-113m of the Connecticut General Statutes specifies the procedure for approval and adoption of municipal harbor management plans as well as Plan amendments. According to this procedure, the Town must submit any proposed Plan amendments to the U.S. Army Corps of Engineers for review, comments, and recommendations and to the Connecticut Commissioner of Energy and Environmental Protection and Connecticut Port Authority for approval. Following state approval, the proposed amendments may be adopted by the East Lyme Board of Selectmen.

2. Inclusion of the Harbor Management Commission's comments and recommendations into coastal permitting decisions.

Proposals for filling of aquatic areas, dredging, placement of structures, and other work in or otherwise affecting the East Lyme Harbor Management Area are subject to state and federal regulatory programs administered by the Department of Energy and Environmental Protection and U.S. Army Corps of Engineers, respectively, and cannot be implemented without the required authorization. Coastal permitting requirements established by the DEEP require applicants to consult with and notify the HMC during the permitting process. The HMC will review proposals affecting the HMA, consider their consistency with the Plan, and provide appropriate comments and recommendations to the DEEP and USACE.

In their review and decision-making processes, the DEEP and USACE should consider the HMC's findings and recommendations to the maximum extent permissible in accordance with state and federal law.

Pursuant to Sec. 22a-113n of the Connecticut General Statutes, a recommendation of the HMC pursuant to the Plan shall be binding on any official of the State of Connecticut when making regulatory decisions or undertaking or sponsoring development affecting the HMA, unless such official shows cause why a different action should be taken.

⁶ The Plan was approved by the state commissioners of Environmental Protection and Transportation and reviewed by the U.S. Army Corps of Engineers prior to adoption of the Plan by the East Lyme Board of Selectmen in 1994. State approval of Plan amendments must follow the same procedure required for Plan adoption in 1994 except that Plan approval is now required by the Connecticut Port Authority instead of the Connecticut Department of Transportation.

Regarding any application for a regulated activity submitted to the DEEP and/or USACE, those agencies should provide the HMC with sufficient information to enable the HMC to make an informed decision on the consistency of the application with the Plan. The HMC should be provided with a copy of any authorization issued by the DEEP or USACE for filling aquatic areas, dredging, or placement of structures in the HMA.

3. Coordination and cooperation with the Harbor Management Commission for implementation of the East Lyme Harbor Management Plan.

State and federal agencies should recognize the Plan as the Town's principal guide (in coordination with the East Lyme Plan of Conservation and Development) for safe and beneficial use of the HMA and protection of coastal resources and environmental quality in the HMA. The Department of Energy and Environmental Protection, U.S. Army Corps of Engineers, and other state and federal agencies should apply their planning as well as regulatory programs in a manner to assist the HMC with Plan implementation. To the extent possible, the agencies should provide information and technical assistance to the HMC for the purpose of addressing matters affecting safe and beneficial use off the HMA, protection of environmental quality and coastal resources in the HMA, and other public purposes consistent with the Plan. In addition, state and federal grant programs should be used to help implement special projects to achieve the Town's harbor management goals.

CITIZENS AND PRIVATE ORGANIZATIONS

In addition to governmental agencies and officials, private groups and individuals should also contribute to implementation of the *East Lyme Harbor Management Plan*. Everyone must comply with Town, state, and federal laws, regulations, and ordinances pertaining to use and conservation of the East Lyme Harbor Management Area. In addition, there are a number of voluntary (non-regulatory) initiatives for managing and enhancing the HMA that can be pursued by Town residents, waterfront property owners, the operators or water-dependent facilities, and others. Interested citizens and organizations are encouraged to contribute to Plan implementation through the following actions.

1. Design of proposals affecting the East Lyme Harbor Management Area for consistency with the Harbor Management Plan.⁷

Proposals that would affect the HMA should be designed for consistency with the Plan. Project proponents may discuss their conceptual plans with the Harbor Management Commission prior to preparing project plans and applications. Pre-application consultation may help to reduce project costs by avoiding expenditures on projects that may not be consistent with the Plan. Pre-application consultation should also, to the extent feasible, address opportunities for projects affecting the HMA to provide public benefits.

⁷ The Harbor Management Commission reminds all applicants for DEEP Permits, Certificates of Permission, and General Permits to prepare their applications in accordance with DEEP instructions, and recommends that all applicants schedule a pre-application conference with the HMC to discuss their proposals.

In the course of the Harbor Management Consistency Review Process, project proponents should present their proposals to the HMC and may appear before the HMC to address any questions concerning their proposals. Applicants for Department of Energy and Environmental Protection Land and Water Resources Division permits are required to review their proposed plans and descriptions of their proposals with the HMC prior to submitting a formal application to the LWRD; applicants for LWRD Certificates of Permission are required to submit their applications to the HMC at the same time those applications are submitted to the LWRD; and General Permit registrants are required to notify the HMC of their General Permit registrations. It should be the responsibility of project proponents to provide the HMC with the information needed to adequately assess the potential impacts of the proposal on the HMA and the consistency of the proposal with the Plan. Applicants requesting permits from the DEEP and/or U.S. Army Corps of Engineers for work affecting the HMA should provide copies of their permit applications to the HMC at the same time those applications are submitted to the DEEP and/or USACE.

2. Demonstration of interest and support for the Town's harbor management initiatives and the Harbor Management Plan.

The contribution that good citizenship can make to advance the Town's harbor management goals should not be overlooked or underestimated. The general public, waterfront property owners, and operators of water-dependent facilities can make significant contributions for guiding beneficial use of the Harbor Management Area, maintaining public safety, and protecting environmental quality. East Lyme residents and others with interests related to the HMA and the Plan may attend meetings of the Harbor Management Commission to express their interests and comments. The public may also participate in special events and programs to increase environmental awareness and enhance coastal resources. Observed violations of boating laws, evidence of pollution, and other actions adversely affecting the HMA should be reported to the HMC, Harbor Master, Police Department, or other appropriate authority at any time.

In addition, the public, including waterfront property owners, should recognize that seemingly minor actions can, when added over time to other similar actions, may have significantly adverse cumulative impacts on the HMA. All citizens can increase their awareness of the impacts of their actions on environmental quality and other conditions in the HMA. At the same time, all citizens can contribute to reducing runoff pollution by increasing their understanding and awareness of how everyday activities can contribute to such pollution in the HMA and its watersheds.

Of most importance for the long-term beneficial use and management of the HMA, private citizens and civic-minded organizations should recognize the HMA as a public trust resource for everyone and a vital resource for the entire Town. Expression of this recognition should serve as a constant reminder to public officials of their responsibility to manage the HMA for the use and benefit of future generations. At the same time, the public should also recognize that waterfront property owners have important rights concerning access to the HMA. As a result, the public's significant rights of access and navigation waterward

of the Mean High Water line must be balanced with the riparian/littoral rights of waterfront property owners for access to the HMA.

3. Voluntary assistance for harbor management.

There are a number of voluntary initiatives for managing and enhancing the Harbor Management Area and waterfront that may be carried out by Town residents, waterfront property owners, and private organizations. Waterfront property owners have an important responsibility to contribute to the maintenance of clean, safe, and functional conditions in the HMA. Sites and structures in and adjoining the HMA should be maintained in a manner that enhances opportunities for beneficial waterfront use and development. Voluntary, community-based efforts such as may be organized by the Harbor Management Commission to clean-up and otherwise improve the HMA's environmental quality should be encouraged and supported.

Town residents and others who use the HMA and waterfront may volunteer to participate in special events and other programs that may be organized from time to time by the HMC and others to increase environmental awareness and maintain and improve the quality of the HMA. Special events may be organized to clean up public waterfront spaces and other waterfront locations and to assist with environmental enhancement projects. Volunteer participation will be essential to the success of such events.

The operators of water-dependent facilities are particularly knowledgeable of conditions in the HMA. Information on these conditions should be provided to the HMC. Also, the operators of marinas interact with the boating public on a daily basis. As a result, they can provide information to resident as well as visiting boaters. Marina operators should assist the HMC, when necessary, by providing information to marina patrons, including information to increase boater awareness of the provisions of the Harbor Management Plan, information concerning restricted speed zones, and other information pertaining to beneficial use of the HMA. In addition, when it is necessary for the Town to obtain information concerning the needs and opinions of resident and visiting boaters, the marina operators may help obtain this information.