

**Town of  
Henlopen Acres**



**Comprehensive Plan  
2024 Review**

# Town of Henlopen Acres Comprehensive Plan

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## **TOWN, COUNTY, AND STATE OFFICIALS**

### **Town of Henlopen Acres**

Mayor and Board of Commissioners

Joni Reich, Mayor  
Timothy Hidell, President pro tempore  
Tiffany Derrickson, Secretary  
Jeffrey Jacobs, Treasurer  
Beatrix Richards, Commissioner  
John Staffier, Commissioner  
Richard Thompson, Commissioner

Planning Commission

Lee Raesly, Chair  
Jason Hollinger  
Gordon Kaiser  
Linda McGavin  
David Robinson, MD  
John Scheurer  
Forrest Wade

Town Solicitor

Glenn C. Mandalas, Esq.  
Baird Mandalas Brockstedt, LLC

Town Staff

Anna Fagan, Town Manager  
Vacant, Town Clerk  
R. Lee Stewart, Security Supervisor  
Alexander McClure, Public Works Manager  
Robert Ribinsky, Streets Manager & Zoning Officer

### **Sussex County**

Council Representatives

Hon. Matthew Lloyd, 1st District  
Hon. Steven McCarron, 2nd District  
Hon. Jane Gruenebaum, 3rd District  
Hon. Douglas B Hudson, 4th District  
Hon. John L. Riley, 5th District

County Administrator  
Planning & Zoning Director

Todd Lawson  
Jamie Whitehouse

### **State of Delaware**

Governor  
Senate  
House of Representatives  
Office of State Planning Coordination

Honorable Matthew Meyer  
Senator Russell Huxtable, 6th District  
Representative Claire Snyder-Hall, 14th District  
David L. Edgell, AICP, Director

## **INSTITUTE FOR PUBLIC ADMINISTRATION**

The original 2004 Comprehensive Plan was prepared by the Institute for Public Administration (IPA), a unit within the College of Human Services, Education & Public Policy at the University of Delaware. IPA links the research and resources of the University of Delaware with the management and information needs of local, state, and regional governments in the Delaware Valley. IPA provides assistance to agencies and local governments through direct staff assistance and research projects as well as training programs and policy forums. Jerome R. Lewis is the Director of the Institute.

## **TOWN GOVERNANCE**

The Town Charter provides for a Commission form of government comprising seven (7) members with one Commissioner elected to be the Mayor and President of the Commission. The Mayor of the Town is the chief executive and presides at all meetings of the Commissioners. The Mayor executes on behalf of the Town, when authorized by the majority of the Commissioners, all agreements, contracts, bonds, deeds, leases, and other documents necessary to be executed. All other offices such as President pro tempore, Treasurer, and Secretary, are appointments made by the Mayor and approved by a majority vote of the Commissioners. The Mayor may appoint the other six Commissioners to be in charge of any departments or divisions of Town government created by the Commissioners.

The Commissioners of Henlopen Acres hold quarterly meetings. Commissioners may either be bona fide residents or non-resident property owners of the Town of Henlopen Acres, however a majority of the Board must be residents. All residents and qualified property owners are eligible to vote in municipal elections.

The Town Charter empowers the Town to provide government services to maintain its peace and order; the health, safety, convenience, comfort, and well-being of its population; and the protection and preservation of property, public and private. The Commissioners of Henlopen Acres have the power to annex additional territory adjoining the corporate limits of the Town.

The Commissioners of Henlopen Acres hire and empower a Town Manager to serve as chief administrative officer with duties prescribed by the Commissioners. The fiscal year for the Town of Henlopen Acres runs from July 1 to June 30.

# **COMPREHENSIVE DEVELOPMENT PLAN FOR THE TOWN OF HENLOPEN ACRES, DELAWARE 2024 TEN-YEAR PLAN REVIEW**

## **Background**

Delaware law requires that municipalities engage in comprehensive planning activities for the purpose of encouraging "the most appropriate uses of the physical and fiscal resources of the municipality and the coordination of municipal growth, development, and infrastructure investment actions with those of other municipalities, counties, and the State." This plan was written to comply with the requirements of a municipal development strategy as described in the Delaware Code for towns with populations of 2,000 or fewer.

The municipal comprehensive plan for small communities, such as the Town of Henlopen Acres, with fewer than 2,000 people is to be a "document in text and maps, containing at a minimum, a municipal development strategy setting forth the jurisdiction's position on population and housing growth within the jurisdiction, expansion of its boundaries, development of adjacent areas, redevelopment potential, community character, and the general uses of land within the community, and critical community development and infrastructure issues." In addition, the Town's comprehensive planning process shall demonstrate coordination with other municipalities, the county and the State during plan preparation. (22 Del. C. 1953, § 702)

State law requires that planning be an ongoing process and that municipalities identify future planning activities. This document is the Town of Henlopen Acres' Comprehensive Plan as required by state law. It is intended to cover a ten-year planning period and be reviewed every five years.

## **Plan History and Public Participation**

### 2004 Plan

In 2002, the Town of Henlopen Acres established a Planning Commission to develop the Town Comprehensive Plan. A draft of the plan was presented to the Town Board of Commissioners in January 2004 for public review and comment. The plan was approved at the July 2004 Board of Commissioners meeting and was certified by the State of Delaware on July 9, 2004.

### 2014 Plan

In 2011, the Planning Commission began work on the ten-year comprehensive plan update, holding 13 meetings between May 5, 2011, and May 5, 2014, a workshop on June 24, 2011, and two public hearings, on December 7, 2011, and on June 27, 2014. The plan was submitted to the Office of State Planning Coordination for PLUS review. Comments were received from PLUS in March 2015.

After review of the comments and further revision, the Town’s plan was resubmitted and subsequently denied by the Office of State Planning for recommendation of certification by then-Governor Jack Markell. A meeting was held in December 2015 with the Cabinet Committee on State Planning Issues. Although the Cabinet Committee found no “legal deficiency in the Town’s proposed Comprehensive Plan,” the plan was not certified by Governor Markell.

On March 4, 2016, the Town of Henlopen Acres Board of Commissioners formally adopted the 2014 Comprehensive Plan in accordance with Delaware Code Title 29, §9103 which states, "The municipality or county shall have the right to accept or reject any or all of the [State] recommendations. The final decision on the adoption of the comprehensive plan is that of the municipality."<sup>1</sup>

### 2024 Plan

The Planning Commission began work on the 2024 Plan in August 2023. In March 2024, the Town engaged the consulting firm, Wallace Montgomery, to assist the Commission in developing the Plan. KCI Technologies was engaged in May 2024 to continue the services of Ms. Lauren Good.

The Planning Commission held five working meetings from August 2023 to June 2024 to identify key issues for examination and to assign topics to individual members for in-depth review. The Commission sent a communication to all residents in May 2024, to request their input in the planning process, followed by a survey on several key topics on July 2024. From that survey, the Commission received responses from 17 households expressing views on various topics, including the tree canopy, fire hydrants, Marina dredging, and trash service.

The Commission held a Public Hearing on the draft Plan on (date), with comments received from (number) households.

#### ADD:

Review by Board of Commissioners

Comments from Neighboring Towns/Governments

City of Rehoboth Beach, City of Dewey Beach, Sussex County

Submission to State Planning Office/PLUS Review

Planning Commission Meetings

August 23, 2023

September 23, 2023

February 1, 2024

May 15, 2024

June 12, 2024

Emails to Residents

Kickoff Email on Planning Process on May 23, 2024

Follow up Email on Comprehensive Plan Issues on July 17, 2024

## Community Overview

### Location

The Town of Henlopen Acres, Delaware, is located in eastern Sussex County. It is north of the City of Rehoboth Beach, south of unincorporated land of Sussex County, and west of the Atlantic Ocean. The Lewes and Rehoboth Canal and the Sandy Bottoms waterway form the western boundary of the Town.

### Town History

The land comprising Henlopen Acres was first brought into legal jurisdiction in 1675 as part of the Young's Hope Patent granted by Governor Sir Admond Andros of New York. It appears to have remained under that patent until 1743, when it passed to the Peter Marsh family. The property again changed hands in 1871, when it came into the Dodd family. The original Marsh Farm comprised several hundred acres and extended well north of the Canal and to the other side of Coastal Highway (Route 1). The Marsh family cemetery is located in what is now called Kings Creek Country Club. The completion of the Lewes and Rehoboth Canal in 1916 created a natural barrier and created the Henlopen Acres parcel.

In August 1929, W.S. Corkran contracted to purchase the Henlopen Acres Trust, took possession on February 14, 1930, and began development of it into a residential development. When he took over the old farm, one of the first questions to be settled was the selection of a suitable name. Inevitably, the old name "Henlopen" came to mind as one of the greatest distinctions. Nothing could be more fitting than to name the development after that world-known Henlopen Light house, which had stood for 200 years within sight of the property and less than a half-a-dozen miles away, across the moorland and dunes. Having once decided upon "Henlopen," the word "Acres" naturally fell into place, for these lands have been real acres of peace and prosperity to their owners since 1675.<sup>2</sup>

#### *Colonel Wilbur Sherman Corkran, (1888-1962)*

**Col. Corkran reportedly purchased the original 156 acres for \$100,000 in 1929. He had been a Colonel in the U. S. Army Corps of Engineers and was a noted architect. His brilliant vision and plan for Henlopen Acres was drafted, and he began selling lots in the early 1930s. A copy of his original brochure is attached, see Appendix<sup>3</sup>. He envisioned "a Seashore Residential Park at Rehoboth Beach, Delaware." He and his wife Louise (1882-1973) renovated and moved into the Peter Marsh House and began the development process which continued until his death in 1962.**

The initial residential plots laid out by Corkran himself, had a frontage of approximately 200 feet and a depth of 150 feet. Variation in lot sizes permitted the natural placement of roads and houses on the land in relation to terrain, trees, and views; avoiding monotonous and unsightly rows of houses on a definite setback line while ensuring ample spaces of light, air, and planting; permanently protected against encroachments. Each home site was planned as "a park within a park."<sup>2</sup>

The advantages of the Henlopen Acres residential site were defined by Colonel Corkran as follows:

1. An exclusive residential park
2. A combined country and seashore community - a pinewoods setting on an ocean beach
3. It enjoys the pleasures of both sea and inland waters - bathing, sailing, motor boating, fishing, canoeing, etc.
4. Firmly protected by all essential restrictions of ample size lots, with one family residence only on each lot, areas specified for community garage, stable, clubs, etc.<sup>3</sup>

In 1970, following the death of Colonel Corkran in 1962, the Charter of the Town of Henlopen Acres was approved by the State of Delaware. It set forth the territorial limits of the Town, as follows:

All three adjoining pieces or parcels of land and premises situate, lying, and being in Lewes and Rehoboth Hundred, Sussex County and State of Delaware, north of the City of Rehoboth Beach and east of the United States Inland Waterway known as the Lewes and Rehoboth Canal, bounded on the north by the lands of Daniel G. Anderson; on the northwest and west by lands of said United States Inland Waterway; and on the south and southeast, in part by the north boundary line of the City of Rehoboth Beach, in part by the north line of Henlopen Avenue, and in part by certain State lands; and on the east and northeast by the mean high-tide water line of the Atlantic Ocean (*See Map 1*).

On June 21, 1973, the Board of Commissioners adopted a resolution annexing the eastern bank of the Lewes and Rehoboth Canal and the eastern half of the Canal waters contiguous with the Town borders, adding 8.72 acres to the Town limits. This action was taken following a Charter amendment granting annexation authority to the Town that was passed by the Delaware General Assembly and signed by Governor Sherman W. Tribbett on June 20, 1973.



## Historic and Significant Properties

### Peter Marsh House or "Homestead"

The Peter Marsh House was listed on the National Register of Historic Places in November 1977. It is significant as an example of an eighteenth-century Sussex County farmhouse, which has retained much of its original detail.<sup>5</sup> As stated earlier, Peter Marsh built the Homestead around 1743 when he purchased portions of a tract of land called Young's Hope, originally granted in 1675 to George Young by the Duke of York and called it in the deeds, "The Mansion House of the Plantation" (*See Map 2*).

The house and surrounding land remained in the Marsh family until 1871, when it was sold to the Dodd family. During most of the Dodd ownership, the house was occupied by tenants. In 1929, Colonel and Mrs. Wilbur Corkran purchased the house and restored it. Where original material was beyond salvage, they carefully replaced it with eighteenth-century building material from houses about to be demolished in the area. The house retained its original floor plan and exterior.



Figure 1. The Homestead, circa 1930

### Rehoboth Art League

The Rehoboth Art League, Inc., a 501(c)(3) corporation, is located on Dodds Lane. It is a beautiful and historic area that occupies three and one-half acres and was founded by Louise Chambers Corkran, the wife of the founder of Henlopen Acres, Col. W.S. Corkran. In addition to the 1743 Homestead and its heritage gardens, the campus includes four other buildings including the 1780 Paynter Studio, the 1949 Corkran Gallery, the 1969 Chambers Studio, and the restored "Stables building" that houses the permanent art collection. The League holds exhibits, classes, lectures, and

other activities seven days a week year-round. The use of the Homestead by the Rehoboth Art League, Inc., is governed by the deed covenants of 1930 and 1982 and by the Zoning Code and is considered a legal non-conforming use.

The RAL was founded on what was then Lot 3, Block J, a 0.9-acre parcel of land owned by Corkran's original development corporation. The RAL began operations in 1938 with a loan of Lot 3 land from Col. Corkran along with the donation of the two-room Paynter House which Mrs. Corkran purchased, and which the Colonel helped move to the site by floating it down the Canal. In 1940, Corkran leased Lot 3, Block J to the RAL, with provisions including: 1. Corporate transparency; and 2. A requirement that RAL activities are conducted in a manner consistent with the original purpose of Henlopen Acres as a quiet residential community with that defined as "the majority opinion of the property owners immediately adjacent to the RAL property." The lease also contained a purchase option of \$1,500. Ultimately Lot 3 was combined with another parcel and became Lot 2, which then comprised 1.661 acres and was transferred on September 26, 1947, to RAL.

The properties controlled by the Rehoboth Art League, Inc. are now Sussex County tax parcels number 334-14.09-56.00, of approximately 2.027 acres (Lot 1 Block J), which includes the Homestead; and parcel number 334-14.09-57.00, which is 1.661 acres (Lot 2 Block J discussed above). These properties are exempt from Sussex County and Town taxes. Upon Corkran's passing in 1962, Lot 1 was left to his wife Louise for the remainder of her life and upon her passing, to the University of Delaware to be used by its President or faculty as a summer home, with a requirement that the property be maintained perpetually by the University in such condition as will respect its authentic character and furnishing as a colonial Sussex County seat.



*Figure 2. The historic Homestead today on the Rehoboth Art League campus.*

On May 18, 1979, the Delaware Chancery Court approved the transfer of the Homestead property (Lot 1 Block J), to the Rehoboth Art League, Inc., since the University had been unable to use the property as Corkran desired. The transfer was conditioned such that, if the Art League should cease to exist, the property would revert to the University of Delaware.

The plan recommends that both properties only be used as an art gallery, art school, or community purpose, consistent with the deed covenants of 1930 and 1982. Lot 1 has significant historic restrictions due to the Homestead's status on the National Register of Historic Places, and Lot 2 has many historic structures and landscaping elements.<sup>5</sup> If the Rehoboth Art League, Inc. ceases to exist, the properties should continue to have the same restrictions for use as set forth in the deed covenants of 1930 and 1982, which includes residential use.

The Town further recommends that the Homestead, accessory structures, landscape, and gardens, consistent with restrictions imposed by the Chancery Court, not be modified significantly as to diminish the historic characteristics of the property or as a departure from the residential character of Henlopen Acres. In 2014, RAL confirmed that it has no intention or desire to change or expand the nature of its activities in Henlopen Acres, or to increase the frequency or intensity of its activities.

To address issues that had arisen about specific RAL activities on campus, the Town in 2014 engaged in extended discussions with RAL to foster a mutual solution. The Mayor, several Commissioners and Planning Commission members met 12 times between July 7 and October 27, 2014, with RAL officials to discuss these issues and RAL's proposal at the time to create a new zoning classification for the Art League property. The Town offered to address the issues raised by RAL in a written document, however no firm resolution was achieved.



*Figure 3. The Corkran Gallery on the Rehoboth Art League campus.*

On July 8, 2015, the RAL signed a Conservation Easement with the State of Delaware for an initial period of ten years to protect the scenic, historic, architectural and cultural resource values, collectively, the “Conservation Values.” The easement ensures that the property will be used in a manner consistent with these values to maintain the beauty and unique character of its campus and cultural uses. On July 21, 2015, Town officials met with Timothy Slavin, Director, Division of Cultural and Cultural Affairs, who confirmed that the easement was not intended or designed to have any effect to supplant the Town’s local zoning laws or land use authority, with a letter recorded at the time by Town officials with the Sussex County Recorder of Deeds.<sup>6</sup>

The Town believes that RAL can operate effectively and thrive as an arts institution under its current zoning as a legally non-conforming use within the existing residential zoning, as it has since its inception in 1938. In a letter to Town officials on October 15, 2024, Denise Clemons, Chairman, Board of Trustees, stated that the Art League is not seeking a zoning re-classification and does not believe one is required for its continued future success.<sup>7</sup>

Today, RAL and the Town have a constructive, cooperative working relationship. The Executive Director confers regularly with the Town on RAL events to coordinate parking and traffic issues, especially for the Annual Outdoor Show which brings 8,000+ attendees to the Town during two weekends in August. The cooperation of the Town is essential for this event, by making roadways one-way and Town property available for visitor parking. RAL and Town officials also meet regularly as needed to discuss campus property improvements, a recent project being the redesign of driveways and parking lot to improve traffic flow, safety, and drainage. The Town will be supporting this project by the development of a cooperative plan for tree planting along Dodds Lane.

### **Block W Oceanfront Properties**

The Block W properties are two ocean-front parcels totaling 13.02 acres with 1,042 feet of beach front. They are integral to Colonel Corkran’s design and vision for the Henlopen Acres community as a place for residents to enjoy the natural beauty of the ocean surf and beach dunes. Colonel Corkran gifted the parcels for two private beaches, with a 3.81-acre parcel (Parcel 1) for a beach club for residents to join and an adjacent 9.21-acre parcel (Parcel 2) for a natural, unimproved beach to be



Figure 4. Block W Parcels: HA Beach Club (Parcel 1) and HA Property Owners Corporation (Parcel 2).

owned collectively by all property owners in Henlopen Acres (to be known as the “Block W” beach). Corkran was instrumental in the early development of both parcels to create a jetty on Parcel 1 and extensive sand dunes on Parcel 2 to ensure that protection for the “low Acres” or properties closest to the beach from ocean flooding.

### **Henlopen Acres Beach Club and History of Jetty**

When Colonel Corkran established Henlopen Acres in 1930, Article IV of the Covenants stipulated land for a community beach club to be a year-round place of recreation for residents. The original deed that conveyed the property for the use of the Henlopen Acres Beach Club, Inc. set specific conditions on the use as a beach club for the enjoyment of members who were primarily residents. Situated in the northeast corner of the Block W parcel (Parcel 1), the Henlopen Acres Beach Club opened in 1955 with chair and umbrella service for its members with only a paved parking lot.



*Figure 5. Construction of Jetty – Photo by Wilbur Corkran 1958.*

In the winter of 1956, Corkran proposed building a jetty 185 feet south of the northeast corner of the lot to curb erosion. As sand flowed from Rehoboth, it would be captured by the jetty and deposited on the 535'-wide beach. After Corkran transferred the property to the Beach Club in 1957, he became project manager to build a jetty of wood trestle piles, with a \$23,000 contract awarded to George Stockley Construction.<sup>2</sup> The jetty had a unique T-shape design with the added piece pointing north towards the North Shores beach and was completed in 1959. Subsequently in 1985, the original wooden jetty was replaced by the current stone version.

The Beach Club was incorporated as a Delaware corporation on October 15, 1958, and the 3.81-acre property is designated as Sussex County tax parcel number 334-14.05-121. Today, the Club features a 1,200-square foot club house with surrounding decks, along with two Har Tru clay tennis courts. The Club has a board of directors, assesses seasonal dues and initiation fees, and pays annual County and Town property taxes. The Plan recommends no changes to the use of the Beach Club.



Figure 6. Henlopen Acres Beach Club

### **Block W Property - Henlopen Acres Property Owners Association**

The second beachfront property that Colonel Corkran gifted to the community is a 9.21-acre property (Parcel 2) referred to informally by residents as “Block W” and located south of the Henlopen Acres Beach Club adjacent to DNREC’s Deauville Beach in Rehoboth Beach. Under the terms of his Last Will and Testament, Corkran transferred Parcel 2 to a Delaware entity to be formed, called the Henlopen Acres Property Owners Corporation (HAPOC) which was incorporated on September 12, 1962.

The property is Sussex County tax parcel identification number 334-14.05-120, and is subject to several deed conditions, including that HAPOC must be and remain a Delaware corporation; all Henlopen Acres property owners are members of HAPOC; the property must be kept tidy and in its natural state; and all federal and state filings must be completed annually, and taxes paid, if any. Property owners pay an annual assessment not to exceed \$250 for maintenance and administrative expenses. HAPOC retains the enjoyment of this property so long as the deed conditions are met.

After purchasing the Henlopen Acres property in 1930 and over the next three decades, Corkran spread hundreds of truckloads of brush and tree saplings on Parcel 2 and in front of the dunes to increase native vegetation on the site.<sup>2</sup> This fortification helped protect the Acres in the destructive Storm of 1962 by holding off storm waters from flooding the low Acres. According to a Biologist from the State Division of Fish and Wildlife, Block W is one of the largest privately-owned tracts of undeveloped land along the Delaware coast and is a valuable natural habitat for animals and migrating birds.

The plan recommends no changes to the use of Block W or HAPOC, and the Town should continue to encourage the maintenance and preservation of the property through cooperative efforts with the HAPOC Board of Governors.

## Community Marina

The Town has a community marina on Tidewaters along the Lewes and Rehoboth Canal. This property is Sussex County tax parcel identification number 334-14.09-10.00, in Block Q, and consists of 2.38 acres. This property is operated for residents and non-residents as defined by the Henlopen Acres Board of Commissioners and features 58 boat slips, kayak storage and a kayak ramp. A portion of the original property designated in the 1930 deed was subdivided in 1981 into three residential lots 334-14.09-10.01, 334-14.09-10.02, and 334-14.09-10.03. On October 21, 1998, a revision to the deed was filed changing the boundaries of the marina site. The Plan recommends no change to the use of the Marina as a recreational amenity of the Town.



Figure 7. Thomas B. Lewis Marina

## Marina History

In 1930, Colonel Corkran built the first docking facility in Henlopen Acres when he hired Lukens Dredging Corp. to remove 60,000 cubic yards of sediment from the bank of the Canal at a cost of \$1,200.<sup>2</sup> At his passing in 1962, Corkran bequeathed the marina to the University of Delaware, with the stipulation that its ownership continue as a non-profit organization. The University leased the marina to a yachting club until 1979, when it transferred ownership of the marina, along with the Homestead, to the Rehoboth Art League (RAL), fulfilling the obligation of non-profit ownership.

The RAL found operation of the marina “not practicable” and approached the Town to take over ownership. In 1981, the transfer of the marina from the RAL to the Town was completed, with the RAL subdividing and retaining three lots from the marina property which were then sold by RAL to establish an endowment to maintain the Homestead property.

## Indian & Pioneer Cemetery

The Indian & Pioneer Cemetery is 4,000 square feet and is located on Dodds Lane between Rolling Road and Pine Reach. It is bordered on the south and east sides by Lot 16, Block K and is owned by the Town. Its history as a burial site is somewhat anecdotal rather than proven. Historically, the State and Board of Commissioners for the Town searched available databases and found no evidence of its actual use as an Indian cemetery. The Plan recommends that the Indian & Pioneer Cemetery

remain in its natural, undeveloped, and unspoiled state. Due to the recent loss of several failing trees, the Town planted nine oak, cedar, and dogwood trees in the cemetery in the Fall 2024.

### **Bridle Paths**

There are eleven named easements associated with specific properties in the Town of Henlopen Acres that are known as "bridle paths," including: Holly Walk, Greenway, Gypsy Lane, Indian Trail, Fox Run, Willow Bend, Point O'Woods, Beach Path, Bayberry Path, Pines' End, and Brightwater Ride. These 10' wide easements are generally located at the rear of residents' properties and provide public access to public utilities as well as walking passage by Town residents.

Bridle paths may be used by residents and property owners in the Town to remove brush and for passage, however they are prohibited from erecting or improving the bridle paths with hedges, shrubbery, fences, buildings, or other improvements that would obstruct passage. The covenants of 1982 also state that, "no modification or variation shall take place that will change the location of such 'bridle paths' to any other location other than at the rear of the lot, unless the consent of a lot owner whose land is to be used for such relocated bridle path shall be first secured."<sup>8</sup>

DRAFT



## **Community Character, Natural Features and Environmental Concerns**

### **Community Character and Design**

Henlopen Acres is a residential beach town and unique among coastal Delaware towns in having no commercial district. It is the third smallest incorporated town in Delaware by population. The community character of the Town should not change due to its small size and limited availability of land for development. The Town wishes to maintain its current residential character and retain the current design of houses as the small number of remaining, undeveloped lots are built out.

The Town Building Code limits the height of buildings to 30 feet and two stories, restricts building coverage area to 20 percent of lot area, limits under-roof dwelling size to 6,000 square feet, regulates obstructions of view on corner lots, and sets a minimum required open space of 60 percent of lot area. The average lot size in the Town is 19,929 square feet, which is significantly larger than neighboring Rehoboth Beach where the typical lot is 5,000 square feet. This, along with a tree canopy of 74.9%, as measured by the State Department of Agriculture in 2014, provides a very special environment to be preserved (*Map 10 - Urban Tree Canopy, Appendix*).

### **Natural and Environmental Features**

Several bodies of water are important natural features of the Town. The Town is an ocean-front community located west of the Atlantic Ocean, and the Lewes and Rehoboth Canal and Sandy Bottoms waterway form the western boundary of the Town.

#### **Lewes and Rehoboth Canal**

The Lewes and Rehoboth Canal forms a portion of the Intracoastal Waterway and connects Delaware Bay in Lewes past Henlopen Acres and the City of Rehoboth to Rehoboth Bay near Dewey Beach. Built by the Army Corps of Engineers from 1913 to 1916 for the shipment of freight, the Canal is now used primarily for recreational boating.

In 1973, the Town of Henlopen Acres annexed the eastern border of the Canal to the half-way point and recorded the annexation in the Sussex County Office of the Recorder of Deeds in 1974. Though completed in 1974, the annexation was not reflected in the official Town map until 2023 when the State Planning Office made the update in the First Map Geographic Information System. All of the Town maps and area statistics in the Plan reflect the annexation.

While a portion of the Canal is within the Town's boundaries, management and maintenance of the Canal remains under Federal jurisdiction with the Army Corps of Engineers. A 2022 Waterway Management Report from the Delaware Department of Natural Resources & Environmental Control (DNREC) states on page 2 that the Canal is federally authorized but, in some cases, maintained by the State and that dredging of the Canal remains a high DNREC priority with Federal participation. Plans were announced in August 2024 for DNREC and the Army Corps to complete a 90,000 cubic yard maintenance dredge in 2025 in two phases. Phase 1 will extend from the Route 9 bridge in Lewes to 1500 feet before the Henlopen Acres Marina. Phase 2 will extend from the Marina to Rehoboth Bay.

### **Sandy Bottoms**

Adjacent to the eastern side of the Canal, Sandy Bottoms is a narrow, shallow, Federally-regulated waterway that is located toward the eastern end of the Town and west of Duneway (known as Ocean Drive in the unincorporated community of North Shores). This small strip of water and land is identified on Sussex County Tax Map #3-34-14.09 as a portion of parcel 10.00. The site, which is 1.19 acres in size (77' x 675' or 51,975 square feet), consists of sandy uplands on the south, with a small unnamed ditch along the northern boundary of the parcel.



*Figure 8. Sandy Bottoms waterway in relation to the Lewes and Rehoboth Canal and the Henlopen Acres Yacht Basin.*

The National Wetlands Inventory Map, Rehoboth Beach, DE, shows that the site is mapped as U (Uplands), while the State of Delaware DNREC Wetland Map DNR009 shows that the site is mapped as O (Other, uplands or non-tidal wetlands less than 400 acres), with no Federally regulated wetlands mapped on site.

The Sandy Bottoms waterway plays an important role in the Town’s stormwater drainage system as water in the ocean blocks empties into drains at the end of Tidewaters, Rolling Road and Pine Reach near Duneway. It is also of interest to homeowners along Tidewaters whose properties and docks abut Sandy Bottoms. Although Sandy Bottoms dead ends in the ocean block of Tidewaters with no outlet, it is frequently used by residents and visitors on kayaks, canoes, and paddleboards.

In 2018, the Town secured permits from DNREC and the Army Corps to perform a Sandy Bottoms Drainage Improvement Project. The project consisted of a mechanical maintenance dredge to remove 230 cubic yards of silt from the shallowest area closest to Duneway to alleviate drainage blockages caused by an accumulation of sediment and phragmites overgrowth. Work was performed by Sussex

Conservation at a cost of \$28,000 and was coordinated with related drainage work performed on Ocean Drive by the Delaware Department of Transportation.

## **Wetlands**

*Map 3. Environmental Features*, describes the location of the Town in relation to surrounding state and federally identified wetlands, Federal Emergency Management Agency (FEMA) 100-year flood plains, and hydrologic features.

Federally identified wetlands may exist along the Lewes and Rehoboth Canal. (*National Wetlands Inventory, see Map 9*). Regulatory protection of wetlands is mandated under Federal 404 provisions of the Federal Clean Water Act. Additionally, tidally influenced wetlands are accorded additional regulatory protection under Title 7, Chapter 66 of the Delaware Code. Compliance with these statutes may require an Army Corps of Engineers-approved field wetlands delineation and/or Delaware Department of Natural Resources and Environmental Control (DNREC) approval.

Three properties along the north side of Tidewaters may include state-identified wetland areas, and these properties are already developed residentially. Conversely, under the U.S. Army Corps of Engineers 1987 method, an area is a wetland only when it meets, under normal circumstances, all three of the following criteria: wetland hydrology, the presence of hydric soils and the predominance of hydrophytic vegetation. The U.S. Dept. of Agriculture, Natural Resources Conservation Service in a 1974 Soil Survey identified the soils of Henlopen Acres to consist of soil classes EvA, EvB, SaA, SaB and Ft.<sup>9</sup> None of these classes comprise hydric soils. As such, areas of possible wetlands should be delineated by a licensed professional wetlands consultant in accordance with the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands."

## **Floodplains, Climate Change, and Sea Level Rise**

The FEMA 100-year flood plain is a significant natural feature of the Town that covers nearly the entire area from Zwaanendael to the beach and portions of Broad Hollow and Tidewaters. Development within the FEMA 1% annual chance flood plain (also known as the 100-year flood plain) is governed by the flood plain regulations that the Town has adopted and agreed to enforce as a participating community in the National Flood Insurance Program (NFIP). In 2013, FEMA released preliminary revised Flood Insurance Rate Maps (FIRM), that reflect minor changes to the 100-year flood plain. These maps were reviewed by the Town, residents, and property owners.

The revised FIRM maps became effective on March 16, 2015, and were revised again in 2018. On October 10, 2014, the Board of Commissioners adopted a revised Floodplain Management ordinance to meet the FEMA recommended compliance requirements. The Town of Henlopen Acres Floodplain Management ordinance includes a 36-inch freeboard requirement (area above base flood elevation), in anticipation and mitigation of sea level rise. This along with initiatives included elsewhere in the Plan reflect actions recommended by Governor Markell in Executive Order No. 41 to prepare for climate change impacts.

In 2019, the Town, along with six other coastal towns from Fenwick Island to Lewes, participated in an Impervious Surface Coverage Assessment conducted by Delaware Coastal Programs (DNREC)

and the University of Delaware. The purpose of the study was to measure the current level of impervious surface coverage in each town and consider a model ordinance and best practice action steps to reduce future coverage levels in anticipation of sea level rise. The study found that of the seven coastal towns, Henlopen Acres had the lowest level of impervious surface in Private Land (Total Land excluding roads, canals, and beaches) and the second lowest level in Total Land during the 10-year period from 2007 to 2016, with both levels at 23%. We attribute this to the absence of a commercial zone within the Town and the large open space requirements for residential lots.

It is recommended that the Town, through the Planning Commission, study the effects of sea level rise on resident property near the Atlantic Ocean and Lewes-Rehoboth Canal and on the Town's critical infrastructure with the goal of evaluating steps that the Town and residents may take to safeguard life and property. Among the infrastructure to be considered are the Water Plant and wells, Marina, Sandy Bottoms, and the stormwater drainage system. Collaborative planning efforts on resiliency and sea level rise are also under discussion by the seven towns in the Association of Coastal Towns (ACT), with the Center for Inland Bays offering planning support to the towns.

### **Key Wildlife Habitat**<sup>10</sup>

Map No. 3 identifies Key Wildlife Habitat observed within the town limits of Henlopen Acres. Construction within the areas identified as Key Wildlife Habitat is prohibited, except for repair and upkeep of existing walking paths and structures or construction measures or practices endorsed by DNREC.

### **Endangered Species**

Each species of great concern was assigned a tier denoting the degree of conservation need for that species. The 2015 Tier system was improved to include additional tiers for greater prioritization.

#### **Tier 1**

Tier 1 species are in the highest need of conservation action. These include the rarest species in the state, species that are highly globally imperiled, and species with regionally important Delaware populations that are under high threat from climate change.

#### **Tier 2**

Tier 2 species are of moderate conservation concern in Delaware. These include species that have rare to uncommon breeding populations in the state, species with broad distributions that are threatened by climate change, and species for which Delaware has high responsibility within the Northeast region.

#### **Tier 3**

These species are relatively common in Delaware but are listed as species of greatest concern for various reasons, including documented population declines, high responsibility of the Northeast region, or continued need for monitoring and management. This tier also includes non-breeding species that are uncommon in Delaware.

**PRIMARY**

<b>CLASS</b>	<b>COMMON NAME</b>	<b>SCIENTIFIC NAME</b>	<b>TIER</b>
MOTHS	Graphic Moth	Drasteria graphica	1
MOTHS	A Noctuid Moth	Schinia septentrionalis	1
BEES	A Sweat Bee	Lasioglossum nymphale	2
BEES	A Sweat Bee	Lasioglossum marinum	2
BIRDS	Northern Bobwhite	Colinus virginianus	2
BIRDS	Prairie Warbler	Setophaga discolor	3
BIRDS	Field Sparrow	Spizella pusilla	3
BIRDS	Eastern Kingbird	Tyrannus tyrannus	3

**SUPPLEMENTAL**

<b>CLASS</b>	<b>COMMON NAME</b>	<b>SCIENTIFIC NAME</b>	<b>TIER</b>
BIRDS	Piping Plover	Charadrius melodus	1
BIRDS	Peregrine Falcon	Falco peregrinus	1
BIRDS	American Kestrel	Falco sparverus	1
BIRDS	American Oystercatcher	Haematopus palliatus	1
BUTTERFLIES	Monarch	Danaus Plexippus	1
TIGER BEETLES	Eastern Beach Tiger Beetle	Cicindela dorsalis	1
TIGER BEETLES	White Tiger Beetle	Cicindela dorsalis media	1
TIGER BEETLES	Ghost Tiger Beetle	Cicindela lepida	1
BEES	A Cuckoo Bee	Nomada rubicunda	2
BIRDS	Yellow-Throated Warbler	Setophaga dominica	2
BIRDS	Laughing Gull	Leucophaeus atricilla	2
BIRDS	Savannah Sparrow	Passerculus sandwichensis	2
BIRDS	Herring Gull	Larus argentatus	2
BIRDS	Common Nighthawk	Chordeiles minor	2
BIRDS	Great Black-backed Gull	Larus marinus	2
BIRDS	Sharp-shinned Hawk	Accipiter striatus	2
TIGER BEETLES	Hairy-necked Tiger Beetle	Cicindela hirticollis	2
TURTLES	Diamondback Terrapin	Malaclemys terrapin	2
AMPHIBIANS	Fowler's Toad	Anaxyrus fowleri	3
BIRDS	American Tree Sparrow	Spizella arborea	3
BIRDS	Snow Bunting	Plectrophenax nivalis	3
BIRDS	Northern Goshawk	Accipiter gentilis	3
BIRDS	Merlin	Falco columbarius	3
REPTILES	Eastern Hog-nosed Snake	Heterodon platirhinos	3

This plan recommends a strategy of education, outreach, and enforcement by increasing public knowledge of wildlife conservation issues and an understanding of habitats, species of concern, and conservation issues. In addition, to protect shorebirds and terns, the Town has erected signage along the beach to deter beachgoers from disturbing birds that may be roosting or feeding in beach habitat.



*Figure 9. Signage deterring beachgoers from disturbing sensitive habitat.*

### **Invasive Species**

In 2017, the Town invited a Biologist from the State of Delaware, Division of Fish and Wildlife and a representative from the State Forest Service to explore our Key Wildlife Habitat and make recommendations for the sustainability of this important and sensitive environment. As a result, a Habitat Management Plan was developed to target invasive non-native plants that threaten to degrade the habitat for native and migratory wildlife, especially on the Block W (Parcel 2) property. It is recommended that the HAPOC Board of Governors share information with the Town on the efforts being taken on and near the property to control the spread of invasive plants. Town efforts underway to control invasive species along Sandy Bottoms will be helpful as the waterway is adjacent to the Block W (Parcel 2) area.

### **Air and Noise Quality**

Henlopen Acres is primarily a residential community with a large percentage of the population participating in walking, jogging, and cycling activities. The only non-residential uses within the Town are related to the marina, the two beaches, Town Hall and water plant, and the Rehoboth Art League and various private activities involved in the construction and maintenance of properties. While the marina and beaches serve primarily the residents of the Town, the Art League serves a regional visitor and membership base. Car traffic and commercial equipment, including trash and landscape services, contribute to increased traffic and reduction in air quality.

The Plan recommends continuing to explore transportation alternatives and land use measures that will improve air quality and reduce air emissions. The Town has long had a “no-idling” policy for all Town vehicles. As recommended in the 2014 Comprehensive Plan, the Town adopted an ordinance in 2016 limiting the idle time of all vehicles to five minutes and was recognized for its adoption of this ordinance in the 2017 State Report on State Planning issues.

The most effective strategy the Town could take to improve road safety for cars, pedestrians, and bicyclists and to improve air quality is to reduce the number of trash and recycling companies serving the Town. These over-sized trucks place a burden on the Town’s narrow roadways and traffic flow, and the presence of multiple trash haulers picking up on different days compounds this. The Plan recommends that the Town evaluate and select one trash company to provide service to residents at a preferred, reduced rate. This would require a minimum number of property owners to utilize the preferred vendor to achieve rate savings. The nearby North Shores community has taken this approach with 75% of owners now using a single company.

The Plan also recommends that the Town purchase hybrid or electric vehicles for the Security Patrol, which operates 24-hours, seven day a week in the Town and North Shores. An analysis confirmed that electric vehicles offer cost savings when the repair, maintenance, and fuel costs are compared to gas-powered cars over the expected life of the vehicle, in addition to base acquisition costs. The Plan does not recommend installing electric vehicle charging equipment at the Marina for resident use, as most residents with electric vehicles have installed charging equipment at their homes.

Hand-held, gas-powered landscaping equipment pollutes the air with greenhouse gases and noise. As neighboring towns and communities enact ordinances to permit only electric-powered, hand-held landscape equipment, the Plan recommends that the Town adopt similar measures once this becomes the majority practice in the area. Henlopen Acres is a small town with about 210 properties and is not large enough to compel landscape companies to change their equipment. However, once the Town follows suit, it will have a significant positive impact on preserving the quiet atmosphere that the residents value.

### **Tree Canopy**

The Town of Henlopen Acres appreciates the importance of its natural resources, and particularly its unique forested setting. The Town has an expansive tree canopy that was last measured in 2014 at 74.9% of coverage, compared to 50.4% in the City of Lewes and 34.2% in the City of Rehoboth Beach (*See Map 10, Urban Tree Canopy*). This abundance of trees not only provides aesthetic beauty but provides numerous significant benefits including reducing ambient temperatures which results in energy savings, reducing pollutants by filtering the air and producing oxygen, reducing runoff and erosion, and reducing exposure to ultraviolet rays.<sup>11</sup>

The age of trees and coastal location of the Town present challenges to the continued maintenance of the canopy. A 2017 evaluation assessed nearly half of Town trees as mature or over-mature.

Moreover, coastal windstorms pose an ongoing threat of downed trees, particularly loblolly pines which have shallow root systems and make up one-fifth of Town trees. Thus, an ongoing program to plant new trees is important to sustaining the canopy.

In 2017, the Town established a Tree Committee to help maintain the canopy and was awarded the Tree City USA designation, having met all the requirements, including passage of a tree ordinance; establishment of a Tree Committee; observance of Arbor Day; and an annual tree care budget that exceeds the required level. Under its charter, the Tree Committee develops an annual plan and budget for the care and planting of trees in right-of-way areas and other Town property. Over the period from 2016 to 2024, the Town planted 162 trees and performed at least two days of tree trimming each year. The Town retains a licensed arborist and works closely with the Delaware State Forest Service to ensure that all tree-related decisions are based on Best Management Practices.

In 2021, as an incentive to care for trees on their private property, the Town instituted a free service for residents to have their trees inspected by the Town arborist. Recommendations are provided on tree care and pruning, and over 20% of residents to date have requested this service. The Town also enacted a minimum tree density requirement in 2019 for newly built homes and homes undergoing significant renovation. The ordinance also imposed requirements for protecting Town trees during construction.

The Plan recommends that these various efforts be continued, and the minimum tree planting requirement for new homes be enhanced to require a higher percentage of deciduous canopy trees. During the planning process, members of the Tree Committee provided comments on a range of provisions to protect trees on private property, including enforcing a minimum tree density on all lots and requiring residents to obtain a Town permit to remove any tree from their property. The Plan recommends that current Code provisions be effectively implemented and enforced to sustain the Town's canopy, and that any further measures adopted focus on retaining mature trees throughout the Town, especially during new home construction. Over the last 12 years, nearly 45% of home sales result in a new home being built, and this new construction has the largest potential impact on the existing tree canopy.

### **Open Space, Marina, Beaches, and Dunes**

The appeal of the Town of Henlopen Acres is largely based on its natural beauty and the beach and water sport activities made possible by its Canal and ocean front location. Participants in planning meetings indicated the Town should continue its efforts to maintain the marina and the beachfront areas in cooperation with the Henlopen Acres Beach Club and Henlopen Acres Property Owners Corporation.

The Beach Club provides unique areas of recreational and social enjoyment for residents and the Plan recommends no changes to the use of the Beach Club (Block W, Parcel 1) or the adjacent "Block W" beach (Block W, Parcel 2) that has an extensive wildlife habitat. The Plan recognizes



the importance of maintaining the jetty along the beachfront area as it naturally collects sand from the surf and is important in maintaining a sustainable beach and dunes for flood protection.

The Marina remains a popular amenity in the Town, offering boater access on the Canal to Lewes and the Delaware Bay to the north, and to Rehoboth Bay to the south. The Plan recommends no change to the use of the Marina, however sediment control will remain an ongoing challenge and expense. The Town should continue to pursue a strategy of periodic Marina dredging, while coordinating with the planned Canal dredging project by DNREC and the Army Corps in 2025-2026. More long-term study should be given to any structural modifications to the Marina, including the opening to the Canal, to mitigate future sedimentation.

Sandy Bottoms is also prone to sediment deposits that inhibit passage, allow invasive species to take hold, and interfere with drainage in the submerged stormwater outfalls. Downed limbs create safety issues for those in canoes, kayaks, and paddleboards. The Plan recommends that the Town increase its management and oversight of Sandy Bottoms to ensure a regular schedule of maintenance that will maintain optimal flow in it for drainage purposes. The Plan also recommends that the Town partner with Tidewaters residents along Sandy Bottoms to obtain deeper dredging to permit use of their boat docks, with residents paying for the costs of such efforts.

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# POPULATION AND HOUSING

## Demographics, Future Population, and Housing Growth

Table 1 outlines the change in population in Henlopen Acres, Rehoboth Beach, Lewes, Sussex County, and the State of Delaware from 1980 to 2022. According to U.S. Census Bureau data, the Town of Henlopen Acres had a full-time population of 139 persons in 2020 with the same number in 2000, reflecting a stable population over the 20-year period.

The full-time population is a function of variables significantly different from the surrounding cities of Rehoboth Beach and Lewes. Henlopen Acres is a town of single-family detached homes used primarily for second homes or, secondarily, for retirement homes. There is a limited number of full-time residents who are in the labor force. The full-time population in the Town will vary based on the decision of homeowners to claim their Henlopen Acres home as their primary residence. A better indication of the need for services and infrastructure is the number of homes and occupancy conditions.

**Table 1. Population of Henlopen Acres and Comparative Jurisdictions (1980-2020)**

Year	State of DE	Sussex County	Henlopen Acres	Rehoboth Beach	Lewes
1980	594,338	98,004	176	1,730	2,197
1990	666,168	113,229	108	1,327	2,331
2000	783,600	156,638	139	1,495	2,932
2010	897,934	197,145	122	1,327	2,747
2020	989,948	237,378	139	1,108	3,303

Source: U.S. Census Bureau, 1980-2020 Decennial Census

Table 2 provides a comparison of basic demographic data among Henlopen Acres, Sussex County, and the State of Delaware. Based upon population, Henlopen Acres is the third smallest town in Delaware, with only Farmington (99) and Hartly (77) having lower populations and a significantly smaller number of homes.

Full-time residents of Henlopen Acres are older and have a higher median income than residents of Sussex County and the State of Delaware. In 2022, the median age of Henlopen Acres full-time residents was 69.2 years, compared with Sussex County's 51.3 years, and the State of Delaware's 41.4 years. Since the homes used as part-time residences are typically owned by working-age persons, the overall median ages of part-time and full-time residents is likely to be lower than the 69.2 years median age reported in the 2022 American Community Survey.

The median income for Henlopen Acres residents is estimated in the 2022 American Community Survey to be \$212,263, compared to \$100,646 in Sussex County and \$104,600 in the State.

**Table 2. Profile of General Demographic Characteristics (2022)**

	State of DE	Sussex County	Henlopen Acres
<u>Total Population</u>	993,635	240,668	193
<u>Age</u>			
Population under 18 years	20.8%	18.1%	7.3%
Population 62 years and older	24.0%	34.8%	62.7%
Median Age (years)	41.4	51.3	69.2
<u>Households</u>			
Total Households	389,000	99,858	103
Households with children under 18 years	27.5%	23.0%	7.8%
Households 65 or older living alone	3.9%	4.6%	1.0%
Average household size (# people)	2.5	2.38	1.87
<u>Housing Units</u>			
Total Housing Units	451,556	144,210	207*
Occupied units	86.1%	69.2%	43.1%
Vacant units	13.9%	30.8%	56.9%
Seasonal or recreational units	38,839	37,713	130
Renter occupied units	28.0%	18.6%	0.0%
Units built before 1940	8.3%	4.5%	6.3%
Units built before 1960	22.1%	10.3%	38.9%
Units built before 1980	43.6%	25.4%	60.7%
Units built before 2000	70.1%	54.1%	78.7%
Units built before 2020	99.2%	98.2%	100.0%
<u>Income</u>			
Median Household Income	\$104,600	\$100,646	\$212,263
Persons below poverty level	11.1%	11.6%	0.0%

Source: U.S. Census Bureau, 2018-2022 American Community Survey; \*Town of Henlopen Acres

### Residential Housing Stock

All the homes in Henlopen Acres are detached single family dwellings, while in the State and Sussex County, single-family homes represent 75% of all housing structures. The Town's homes are mostly for seasonal use.

**Table 3. Composition of Housing Stock (2022)**

Housing Type	Henlopen Acres		Sussex County		State of Delaware	
	#	%	#	%	#	%
Single-Family	207*	100.0%	108,481	75.2%	337,541	74.7%
Multi-Family	0	0.0%	15,335	10.6%	80,585	17.9%
Manufactured Homes	0	0.0%	20,302	14.1%	33,122	7.3%
Other	0	0.0%	92	0.1%	308	0.1%
Total Housing Units	207		144,210		451,556	

Source: U.S. Census Bureau, American Community Survey (2022), \*Town of Henlopen Acres

As shown in Table 4 below, the median value of owner-occupied housing units in Henlopen Acres is significantly higher than the median for Sussex County and the State of Delaware.

**Table 4. Value of Home (2022)**

Housing Financial	Delaware	Sussex County	Hen Acres
Median Value of Home	\$305,200	\$324,400	+\$2,000,000
% with Mortgage Outstanding	39.9%	31.6%	9.6%

Source: U.S. Census Bureau, 2018-2022 American Community Survey

**Affordable Housing Strategy**

Given its coastal location and the large size of its lots and homes, the average value of homes in the Town is over \$2 million, with recent sales over \$4 million. The Town believes that with respect to the development and availability of affordable housing, the Fair Housing Act was not intended to apply to small, established and fully developed areas such as Henlopen Acres where its application would be impractical. The Town will work, however, with County-driven initiatives to help seek a regional solution to affordable housing that is feasible and sustainable. The Town has added a link on its website to the Delaware Affordable Housing Search and the Sussex County Affordable and Fair Housing Resource Center.

**Population Projections and Growth**

The Delaware Population Consortium in an October 2023 report indicated that from 2010 to 2016 Sussex County grew by 10.5% to 219,316, and by 16.6% to 237,378 in 2020. Additionally, it projects Sussex County will be the fastest growing county in the State from 2010 to 2050, growing to a projected population of 361,422. Growth of the full-time population and housing in Henlopen Acres will depend primarily on the decision of homeowners to live full-time in Henlopen Acres, due to the limited availability of land for new construction.

**Redevelopment**

The Town of Henlopen Acres does not have traditional redevelopment opportunities. The potential for redevelopment within the Town limits of Henlopen Acres could occur in two forms, the first being the development of existing vacant lots of which there remain only three. The second form is the replacement of existing homes with new structures following the sale of properties. This is an increasing phenomenon, with the newer homes substantially larger than existing, older houses. Since 2009, 23 new homes have been built with another eight planned, representing 15% of the housing stock. Further, another 35 homes underwent major renovations, representing another 17% of homes.

The Town has set a series of restrictions to limit the size of new homes through height, size, and setbacks. The average residential lot is 19,929 square feet. Several factors keep houses from being

built out of character with other homes, including a lot coverage limit of 20% for the dwelling, a limit of 6,000 square feet under roof, and the active involvement of the Town's Environmental Approval Committee in reviewing all house plan designs.

### **Redevelopment Recommendations**

The plan recommends that all vacant or redeveloped property within the Town be developed as residential and in character with existing houses. *Map 7. Future Land Use* describes the recommended future land use pattern for the Town. Properties that are not to be developed as residential include the Henlopen Acres Beach Club, the Block W Beach Property, the Indian and Pioneer Cemetery, and the Henlopen Acres marina property.

The plan recommends that the Peter Marsh House, known as "The Homestead" at 10 Dodd's Lane be provided with all possible protection as a structure on the National Register of Historic Places. The current Zoning Code does not provide for a specific historic preservation district but does require the submission of a complete and comprehensive set of plans to the Environmental Approval Committee for review prior to construction or reconstruction beyond the usual and necessary repairs.

The plan also recommends that the Town Hall and Water Plant properties remain in public use as long as those functions are deemed necessary by the Town. If the Water Plant property at 78 Pine Reach is no longer needed for the public water system, the land use recommended for this site is residential.



*Figure 10. Henlopen Acres Town Hall*

## LAND USE PLANNING AND REGULATION PROCESS

The Town's overall vision is to remain a well-planned resort and residential community that maintains its recreational and natural resources while providing public services to its residents of which approximately one-third make the Town their primary year-round residence.

### Community Design

The participants in the planning meetings indicated a strong desire to maintain the type of development that currently exists within the Town. Housing in the Town is exclusively single-family detached. The Town has also had a strong commitment to preserving the historic Art League campus and Homestead property, considered the oldest dwelling in the Rehoboth Beach area, while maintaining its historic integrity.

### Land Use and Annexation

The Town of Henlopen Acres will remain a primarily residential town with open space, recreation, and limited institutional uses. While the Town has no stated interest in annexation at this time, land use concerns for Henlopen Acres do extend beyond the limits of the Town. Participants in planning meetings have indicated that preservation of wetlands along the west side of the Lewes and Rehoboth Canal are important.

In addition, the use and maintenance of the Deauville Beach Park owned by the State of Delaware is of particular concern due to its close proximity to the Town and the Block W beach. Also of great interest is the forested property across the street from Deauville Park on Duneway. This undeveloped area is adjacent to the first block of houses on Pine Reach. The Town should explore options for this site, including assurances from the State that the property will remain passive open space without improvements, as currently zoned by the City of Rehoboth Beach, or possible purchase of the property from the State.



Figure 11. Deauville Beach Park and the forested property of interest.

Henlopen Acres was developed originally in 1930 as a residential community. Of the 218 parcels, 210 are residential or vacant residential properties. Table 5 lists the current land use for the Town and the approximate acreage. *Map 6. Existing Land Use* provides an overview of the pattern of current land use. The Rehoboth Art League uses the Homestead on Dodds Lane as an art gallery and art instruction facility. The property is zoned residential and is an existing legal non-conforming use. The Town’s original deed restrictions allow for institutional use on the property such as art galleries, art education facilities, or other art related uses upon approval of a Special Exception by the Board of Adjustment.

**Table 5. Current Land Uses**

Land Use	No. of Parcels	Approx. Acreage
Beach Use and Key Wildlife Habitat	2	13.02
Marina	1	2.40
Government and cemetery	3	1.06
Rehoboth Art League	2	3.69
Residential (developed)	207	96.45
Residential (undeveloped lots)	3	1.17
Streets, Alleys, Easements, Watercourses		40.28
Canal Annexation 1973		15.70
<b>TOTAL</b>	<b>218</b>	<b>173.78</b>

**Deed Restrictions and Conditions**

The deed of sale of the property of Henlopen Acres, dated July 22, 1930, sets forth a series of restrictions concerning property use and transaction (the Covenants).<sup>4</sup> These provisions were updated by the deed dated July 6, 1982.<sup>8</sup> The deeds restrict the construction of properties within the Town to single-family residences. The Town has a right of first refusal on the sale of any property or any interest in any property. The property owner is also required to give notice to the Town Commissioners prior to any sale. The deed of sale also requires the review of any building or land development by the Environmental Approval Committee. The deed also stipulates how a property can be reviewed and what conditions the Environmental Approval Committee can require. The Zoning Code further defines this process of site plan review.

**Land Uses Prohibited by Deed**

The following land uses are prohibited by the Covenants within the limits of the Town: manufacturing; crematory or graveyard (except the existing Indian and Pioneer burial ground on Dodds Lane); hospitals; penal institution; agricultural uses; automobile storage or junkyard; and advertising signage. The covenants also limit any noxious or offensive uses.

**Future Land Use Goals**

The future land use goals of the Town are as follows:

- Manage the future development and redevelopment of the Town to maintain its well-planned

resort and residential community character;

- Preserve and maintain the Town's historic homes, structures, and resources; and
- Maintain and improve the building and zoning codes and development processes to ensure that all new development and redevelopment enhance the Town's resort and residential community character.

### **Review of the Zoning Code**

The Town of Henlopen Acres has an adopted Zoning Code and an official Zoning map with the following elements:

- The zoning specifies four districts: R-Residential; B-Recreational; M-Marine; and G-Government.
- The Code details permitted and special exception land uses and specifies lot size, lot coverage, setbacks, and height limits.
- The Code provides for a Zoning Inspector to enforce the regulations.
- The Code establishes an Environmental Approval Committee that has the power to review a site plan and approve or reject it.
- The Code establishes a Board of Adjustment appeal process for decisions made by the Zoning Inspector and to hear requests for special exceptions of the Zoning Code.
- The Code also provides for a special exception for the use of residential properties such as art studios, art museums, theaters, or theater classrooms.

*Map 5. Zoning* delineates the current zoning designations. The plan recommends no change in zoning for the Town. As outlined in the section on the Rehoboth Art League on page 7, Art League officials have confirmed in writing to the Town that it is not seeking a zoning change to achieve its goals of maintaining its historic property and campus and presenting its artistic programs.

At present, the Zoning Code does not provide for a named “zoning commission”. The Code vests many of the planning and site plan review decisions in the Environmental Approval Committee. Only a limited number of re-zonings have occurred in the Town's history, from residential to government, as new Town facilities have been built on vacant lots. The Environmental Approval Committee reviews a site plan prior to the issuance of a building permit. The Zoning Officer and Environmental Approval Committee act in the role of a site plan review committee.

The Zoning Code establishes the Board of Adjustment to be comprised of three to five members who are residents of the Town and who are not Town Commissioners or employees. Members are appointed by the Mayor and confirmed by the Commissioners. The Board of Adjustment serves the following roles: 1) Hears and decides upon appeals of decisions made by the Zoning Officer and Environmental Approval Committee based on alleged error; 2) Determines special exceptions listed in the Zoning Code; and 3) Authorizes variances from the Zoning Code based upon either unnecessary hardship for use variances or exceptional practical difficulty for dimensional variances, not of the making of the property owner.



The Code uses the Board of Adjustment as the means to implement the special exception process. Neither the Environmental Approval Committee nor the Board of Commissioners reviews these planning decisions made by the Board of Adjustment. The next level of review would be an appeal to the State Superior Court.

To ensure that the Zoning Code is well understood by residents and contractors, the Town should undertake a concerted review of the existing Code and clarify provisions to eliminate ambiguities. This includes provisions for the placement of accessory uses and an update of permissible building materials. The Town should also increase its efforts to communicate Code provisions to promote compliance.

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## COMMUNITY INFRASTRUCTURE

### Water Supply

The Town of Henlopen Acres provides public water to its residents and has a Certificate of Public Convenience and Necessity from the Delaware Public Service Commission to provide water throughout its municipal limits. The water system was constructed in 1993 with an automated treatment facility. The Town has eleven wells (*see Map 8*) that were drilled from 1991 to 1993 to replace earlier wells. These wells have a combined pumping capacity of 250 gallons-per-minute.

Public water is currently available for all single-family homes, the Homestead, Rehoboth Art League, Beach Club, and Town facilities. The water system capacity is 100,000 gallons per day, with usage varying by season. In summer, usage can reach 80,000 gallons-per-day in July or August and can be as low as 10,000 gallons-per-day during winter months. The Town has an allocation from DNREC to withdraw up to 31,190,400 gallons per year. Previous usage levels indicate that the Town has used up to 15,000,000 gallons per year of this allocation.

Using a national average usage rate of 300 gallons per day for a typical single-family home, the residential usage can be expected to amount to 63,600 gallons per day. This typical year-round usage for residential properties is significantly less than the design capacity of the system of 100,000 gallons per day. With the limited development potential of three new homes in Henlopen Acres, the water system is adequate for current and future needs. The Town limits the use of public water for irrigation purposes, prohibits fixed-irrigation systems from using public water, and requires residents to dig an on-site well for fixed-irrigation systems and swimming pools.

The Town Charter grants the commissioners of Henlopen Acres full power and authority to provide an ample supply of potable water for the Town. The Town has the authority to purchase, acquire by grant or gift, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace and control wells, reservoirs, pumping machines and stations, tanks, standpipes, water mains, fire hydrants, and all other instruments for collection, storage, purification, conveyance, and distribution of water, over, on, under, or through the lands controlled by the Town or belonging to private individuals. The Commissioners have power to enact ordinances, rules, and regulations regarding the use for public or private purposes of water furnished by the Town, the amounts to be paid by the users, the fixing of fines and penalties; to make contracts for the purchase of water with any responsible person or corporation; and to distribute the same to users.

In 2018, the Town, through a multi-year grant of \$100,000 from the Delaware Office of Water Quality, engaged KCI Technologies to evaluate its water system and develop a comprehensive asset management plan. The study, completed in 2022, provides a road map to the Town to evaluate and replace all major components based on remaining useful life assessments and to improve monitoring and operations by the installation of SCADA electronic controls software. The study also involved documentation of all operating and maintenance procedures.

In 2021, the Town of Henlopen Acres completed a water supply interconnect with the City of Rehoboth Beach, that would continue the supply of potable water should an unforeseen event arise with either municipality's water system. The Town also adopted the State's recently approved water cross-connection regulations.

The Town's eleven wells are shallow and thus may be vulnerable to contamination. The Town continually monitors water-quality issues and in 2022, identified traces of per- and polyfluoroalkyl substances (known as PFAS) in the untreated water of two wells. PFAS are widely used, long-lasting chemicals that are present in low levels in water systems across the State and nationally. The Town applied for a \$100,000 grant from the Division of Public Health in 2023 funded by the Environmental Protection Agency for further study on the best corrective action. Final grant approval occurred on October 31, 2024. During this time, the Town is not drawing water from the two wells and is relying on the other nine wells that do not have trace exposure to PFAS.

With assistance from the Delaware Rural Water Association (DRWA), the Town completed the Lead Service Line Inventory in October 2024, confirming the absence of lead in pipes at the Water Plant and in connections to residences and buildings serviced by the Water Plant.

Wellhead protection is a continuing concern. Town wells are relatively shallow and located within residential areas near dwellings. These areas may be subject to contamination due to the growing use of residential pesticides and fertilizers. Additionally, the Town has cataloged all known underground storage tanks. Upon review of these risks and based on the input of DRWA staff, the Plan recommends the Town adopt new guidelines for the purpose of wellhead protection to safeguard residents' health. This may include consideration of having a smaller number of larger wells to provide a greater safety buffer for the wells.



*Figure 12. Town Water Plant.*

## **Stormwater Drainage**

The Town of Henlopen Acres lies within the Inland Bays watershed and is affected by the Total Maximum Daily Load (TMDL) regulations set by DNREC for managing discharges into bodies of water. Section 303(d) of the Federal Clean Water Act (CWA) requires states to develop a list of bodies of water (the 303(d) List) for which existing pollution control activities are not sufficient to attain applicable water-quality standards and to develop TMDLs for pollutants of concern. A TMDL sets a limit on the amount of a pollutant that can be discharged into bodies of water, such that water-quality standards are met.

The Town will work with the State, Sussex Conservation District, and other agencies to identify strategies that will meet Town goals and the needs of surrounding ecosystems. The Town should also consider requiring developers to use Best Management Practices that encourage filtration or re-use of runoffs, such as use of pavement and pervious surfaces. The Delaware Sediment and Stormwater Regulations of January 1, 2014, have a goal of reducing stormwater runoff for a rainfall event up to the equivalent one-year storm, 2.7 inches of rainfall in 24 hours.

The Town Charter provides the Commissioners of Henlopen Acres with the power to manage the drainage of all water within Town limits and the authority to pass ordinances for the opening of gutters, surface-water and underground drains, and sewers. The Town is empowered to regulate, maintain, clean, and keep the natural watercourses, runs, and rivulets within the Town limits open, clean, and unobstructed.

Stormwater management is an important factor in protecting our water quality. There is a direct relationship between the level of impervious cover and water quality. As impervious cover increases, stormwater runoff increases. The increased runoff that comes into contact with pollutants transfers them into the waterways. Pollutants that accumulate due to runoff include nutrients such as nitrogen and phosphorus or organic chemicals, such as oil and gas.

In 2000, the Town realized the need for a stormwater management plan and hired Soule & Associates of Salisbury, MD, to conduct a needs survey and to propose an implementation plan. A multi-phase plan was adopted to interconnect various areas of concern within the Town. The build-out was completed in 2005 with additional tie-ins completed in 2010.

The Town has improved its stormwater management system to reduce the negative impacts of runoff. The plan recommends that the Town enact regulations to reduce the impact of residential land use on runoff. This can be achieved by improvements that buffer run-off into water bodies such as the Canal and other best management practices to reduce non-point sources of nutrients.

These actions, along with the Town's existing open space requirements, may aid in improving water quality in the Lewes and Rehoboth Canal. DNREC's Inland Bay watershed report indicates that municipalities can assist in reducing non-point discharges by improving stormwater management policies to better manage runoff through detention, retention, and floodwater storage mechanisms, improved street-cleaning practices, buffer strips, grass waterways, sediment traps, vegetative

stabilization, and streamside-management zones.

As noted, the Town partnered with six coastal towns in 2018-2019 on a study of impervious surface levels. This provided an opportunity to compare surface levels in other towns and learn best practices to create a more resilient infrastructure through nature-based solutions to increase stormwater infiltration. The Town's impervious surface level compares favorably due to the large, natural open space levels in each residential lot, the high tree density, and the lack of commercial paved areas. Nonetheless, proper drainage remains an important concern of the Town especially when new homes are constructed, and the Town will continue to assess effective drainage for each new construction in conjunction with Sussex Conservation District. In addition, it is recommended that the Town consider other steps, such as requiring pervious surfaces in new driveways.

### **Wastewater**

The Town's wastewater system is connected to the Rehoboth Beach facility and has an average monthly flow of 1,562,667 gallons. In May 2018, the City of Rehoboth commenced operation of its new outfall project which disperses treated effluent one mile into the Atlantic Ocean.

### **Solid Waste Disposal**

Property owners within Henlopen Acres arrange solid-waste disposal and recycling on an individual basis. As stated in the Air Quality section, the Plan suggests consideration of a Town recommended solid waste disposal and recycling vendor to consolidate pick-ups. Currently, two main vendors travel the roads of Henlopen Acres weekly, Casella and Waste Management. Today, Casella has 81 customers and Waste Management has 64 customers. Traffic levels and safety can be improved by having more residents use one provider with the added feature of preferred pricing.

### **Maintenance of Marina, Piers, Jetties, and Bulkheads**

The Marina has been an important recreational amenity in the Town since the founding of the development in 1930. Today, residents and non-residents can apply for one of the 58 boat slips, which has a waiting list. After 1998, the Marina underwent a major renovation when the Town received special funding from the U.S. Park Service to re-build the docks. The Town will begin phased replacement of wooden dock boards with more durable composite material in 2025.

The major maintenance issue for the Marina is removal of sediment from the Lewes and Rehoboth Canal. Sediment build-up can reduce water depth at mean low tide to a foot or less and reduce the number of usable slips. The chart below shows dredging activity by the Town to improve navigability in the Marina since 1990. Except for the 1990 dredge by DNREC, dredge costs have been a considerable expense for the Town. The most recent project in 2022 removed one-half of the sediment needed to re-establish a four-foot depth throughout the Marina.

The Town is in the process of applying for permits from the Army Corps of Engineers and DNREC to perform a more complete dredge of the Marina after the major Canal dredge occurs in 2025. Envirotech is assisting in defining the scope of the project, including whether to include the mouth of the Marina where a large sand bar exists and how to possibly assist homeowners along Sandy Bottoms who are experiencing difficulties with silt-build near their docks.

Table 6. Marina Dredging Costs

<b>Year</b>	<b>Cubic Yards</b>	<b>Cost</b>
2022	3,000	\$170,000
2012	4,000	\$202,000
2003	4,700	\$146,500
1990	3,100	\$20,000
<b>Total</b>	<b>14,800</b>	<b>\$518,520</b>

A major cause of the Marina sediment problem is lack of maintenance in the Lewes-Rehoboth Canal. The Canal is under the control of the U.S. Corps of Army Engineers which has not performed a full dredge in the Canal since it was built over 90 years ago. As a result, the annual sedimentation rate in the Town marina has increased significantly from 360 cubic yards in 1990-2003, to 444 cubic yards in 2003-2012, and to 900 cubic yards in 2019.

The Town has worked closely with other coastal towns, including the City of Lewes, City of Rehoboth Beach, and Town of Dewey Beach, to request Federal and State officials to approve funds to dredge the Canal. In January 2022, Senator Carper secured \$3.8 million in funding, followed by an additional \$8.5 million in 2023. It is the Town’s understanding that the U.S. Army Corps is finalizing a plan with DNREC to complete a full Canal dredge in 2025-26.

The Town has a significant interest in preserving and properly managing the beach improvements, including the dunes and protective jetty located at the Beach Club. The jetty extends perpendicular from the beach 320 feet and was first built by the Club in 1958 under the direction of Col. Corkran. Chapter 29 of the Town Charter empowers the Commissioners to “construct, widen, extend, improve, repair, vacate or abandon jetties” and to expend funds to do so. Due to its importance in maintaining the dunes that protect the Town from flooding, the Town should work with the Beach Club to have an engineering inspection performed every five years. The Town should encourage annual dune grass planting and prompt repair of sand fences. Any issues arising relating to the existing jetty will be coordinated between the Town, the Henlopen Acres Beach Club, and DNREC.

## **PUBLIC SAFETY**

### **Police Services**

The Town Charter provides the Town's Commissioners with the power to make rules and regulations necessary for the organization, government, and control of a police force. Though the Town does not have a police force, it does employ a security force of full-time and part-time patrolmen who provide 24-hour per day/seven day per week security patrol. The security officers are Town employees and are not required to be accredited police officers but typically have related professional experience in public safety or corrections. The security officers do not have the power to make arrests and contact the Delaware State Police as needed. The Town also provides security patrols for the unincorporated development of North Shores under a contract with the North Shores Board of Governors. This requires coordination with the U.S. Secret Service who protects the home of former President Joseph R. Biden.

The Charter empowers the Town Commissioners to organize a beach patrol to enforce regulatory measures ordained by the Commissioners with respect to the cleanliness, usage, and enjoyment of the Town beachfront, subject to cooperation with the Henlopen Acres Beach Club and the Henlopen Acres Property Owners Corporation (HAPOC). The Beach Club employs its own seasonal lifeguard staff for its beach. The HAPOC does not have lifeguards on the Block W beach but deploys security officers to monitor use.

### **Fire Protection**

The Rehoboth Beach Volunteer Fire Company (RBVFC) provides fire protection to Henlopen Acres by Station 1 on 219 Rehoboth Avenue, less than one mile from the Town. Currently there are no fire hydrants in the Town. In both 2022 and 2023, there were eleven fire calls made by the Fire Company to residences in the Town. In the event of a fire, RBVFC will bring water in by truck and, depending on the location of the fire, use the Rehoboth fire hydrant located on Henlopen Avenue near the Dodds Lane entrance or trough water from the Lewes-Rehoboth Canal.

At a Board of Commissioner meeting in October 2022, fire officials stated they prefer to have fire hydrants in the Acres to extinguish fires as quickly as possible. In April 2019, the Town engaged KCI Technologies to design a fire hydrant system based on State Fire Guidelines. The design calls for a loop-style configuration of 12 hydrants (five on Pine Reach, two on Rolling Road, and four on Tidewaters) with every dwelling reachable by 1,000 feet of fire hose.

With the new interconnect to the Rehoboth water supply, the fire hydrants can function with sufficient pressure. Residents may also experience up to a 15% reduction in homeowners' insurance premiums if hydrants are installed. The Commissioners have included the project in the 5-Year Capital Plan. The Fire Company also recommends that the Town request residents to display large house numbers to assist emergency vehicles.

In recognition of the Fire Company's dependence on community donations, in June 2023 the Commissioners adopted a \$50 assessment on each parcel's annual property tax bill (\$25 for unimproved lots). This assessment will result in \$10,500 annually for the Fire Company, along with a \$3,500 donation from the Town, a substantial increase over prior support levels. An editorial in the Cape Gazette lauded the Town's action in introducing the Fire Company assessment as a model for other communities.

### **Emergency Medical Services and Advanced Life Support**

The Rehoboth Beach Volunteer Fire Company also provides professional Emergency Medical Services. Advanced Life Support is provided by Sussex County through its Office of Emergency Services, with the closest paramedic station being Station 104, located on Plantations Road four miles from Henlopen Acres. In 2022, the RBVFC made 22 medical rescue calls to Henlopen Acres residences.

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## **COMMUNITY SERVICES**

The Town is serviced by the post office in Rehoboth Beach, Delaware, located at 179 Rehoboth Avenue.

The nearest hospital is Beebe Medical Center, located seven miles from Henlopen Acres at 424 Savannah Road in Lewes, Delaware. Beebe is a Level III Trauma Center and operates a full-service hospital, emergency center, and a wide range of in and outpatient services. There are also two health clinics within three miles of the Town.

There is no library in Henlopen Acres. The Rehoboth Beach Public Library, at 226 Rehoboth Avenue in Rehoboth Beach, and the Lewes Public Library, at 111 Adams Street in Lewes, serve the Town. The Town may install a “Free Little Library” stand on the grounds of the Indian Cemetery.

There is no senior center in Henlopen Acres. Cape Henlopen Senior Center, a non-profit senior center, located at 11 Christian Street in Rehoboth Beach, Delaware, provides a variety of services for seniors in the Town of Henlopen Acres as well as other nearby areas of Sussex County. A new facility for the Senior Center is planned on Hebron Road across from the Canal Pointe development.

### **Parks**

Henlopen Acres has three Town parks described below. In addition, the historic gardens and campus of the Art League serve as a picturesque park open to residents and visitors year-round.

### **Memorial Parks**

The Town has two memorial parks. One, known as Deakyne Way, recognizes Walter C. Deakyne, Jr. who served as Mayor for 17 years from 1977 until 1993. The park is an area bordered by 38 Pine Reach on the east and 40 Pine on the west and stretches between Pine Reach in Henlopen Acres to Henlopen Avenue in Rehoboth Beach.

The second memorial park is within the Thomas B. Lewis Marina. It was erected in 2020 to honor David F. Lyons, Sr., for his service as commissioner for 13 years and as Mayor from 2015 to 2018. It offers benches from which to enjoy the views of the Marina and Canal.

### **Wanda Davis Grove**

This park recognizes Wanda Davis her service as Mayor for 11 years from 2001 to 2012. Wanda Davis Grove is a parcel of land near the eastern entrance of Henlopen Acres bordered by Pine Reach and Zwaanendael and features loblolly pine, cedar, and holly trees.

### **Recreation**

Henlopen Acres has significant recreation beach and watersports amenities. The beach, within the Town limits, is divided into two parcels. The southern parcel, on 9.21 acres with 637 feet of beachfront, is known as Block W and is owned by the Henlopen Acres Property Owners Corporation. This area of the beach is accessible to all residents of Henlopen Acres, including

renters. At the north end, the Henlopen Acres Beach Club owns and manages a 3.81-acre parcel with 405 feet of beachfront. The Beach Club maintains facilities that include tennis courts, a clubhouse, parking lot, and a guarded swimming area with umbrella and chair service.

The Town maintains a marina, along with kayak launch and kayak storage at 47 Tidewaters, which has access to the Lewes and Rehoboth Canal.

Immediately south of the Block W beach property along the oceanfront is the Deauville Beach Park, owned by the State of Delaware and operated by DNREC as of 2024. The property includes the portion of land to the west of Henlopen Avenue bordering the Town of Henlopen Acres.

Less than a half mile from the Town is the Gordon’s Pond section of Cape Henlopen State Park. Gordon’s Pond offers a public beach and very popular walking and biking trails, including Gordon’s Pond Trail as well as the Breakwater Junction trail running from Rehoboth to Lewes. Henlopen Acres has long been recognized as a remarkable walking area where streets are shared equally between cars, bicycles, and walkers. Henlopen Acres is included in the 2018 edition of the Sussex Outdoors' Guidebook for Fitness & Good Health as part of a three-mile loop including Rehoboth Beach and the Boardwalk.<sup>12</sup> The Town also hosts several running races throughout the year.

In addition, birding or birdwatching is becoming increasingly important to ecotourism. The Town of Henlopen Acres is a designated birding hotspot by the Cornell Lab of Ornithology (ebird.org). Nearly 150 different bird species are regular visitors to the Town.

The many arts-related exhibits and classes offered by the Rehoboth Art League can be enjoyed by the residents and visitors of Henlopen Acres, along with the cultural and recreational activities offered by the neighboring Cities of Rehoboth Beach and Lewes.



Figure 13. Great Walks & Trails in Sussex County.

## **Transportation**

The primary means of transportation for Town residents is private automobile, biking, or walking. Delaware Area Rapid Transit or DART First State provides bus service to Rehoboth Beach that connects Lewes, Georgetown, Rehoboth Beach, Dewey Beach, Bethany Beach, to many areas throughout the State, as well as to Ocean City, Maryland, and beyond. Bus service can be accessed at stops at the Rehoboth Beach boardwalk and at the Park-and-Ride facilities on State Rt. 1 near Rehoboth Beach and Lewes. Most beach-area transit service is seasonal, with limited cross county service to Rehoboth Beach operating throughout the year. DART First State also provides paratransit services that Henlopen Acres residents may be eligible to use. Current information on transit and paratransit services may be obtained from the Delaware Transit Corporation.

The State of Delaware maintains Duneway road (also known as Ocean Drive in North Shores). The Town maintains and has authority to regulate all other streets using Town funds or Municipal Street Aid funds provided by the State for its 3.61 miles of public roads. In 2016, the Town completed a five-phase street resurfacing project and began planning a new paving project to begin in 2026. The Town maintains a very pedestrian-friendly atmosphere that equally accommodates both bicycles, cars, and dog walkers.

In 2021, at the request of Town and Beach Club officials, DelDOT installed crosswalks at the end of Tidewaters, Rolling Road, and Pine Reach to assist residents in safely crossing Duneway to access the beach. The new crosswalks have substantially calmed traffic along Duneway and increased pedestrian and bicycle safety.

## IMPLEMENTATION

### Overall Goals

- Manage the future development and redevelopment to maintain the Town's well-planned resort and residential community character.
- Ensure that utilities, community services and facilities are adequate to serve the existing community as well as future development of the remaining vacant lots.
- Maintain and improve the municipal zoning Code and building permit review process to ensure that all new development and redevelopment enhances the Town's resort and residential community character and preserves the Town's plentiful tree canopy.
- Preserve the beach and dunes as a resource and asset for all Town residents and ensure the continued maintenance of the protective beach jetty.
- Assist in the continued operation and preservation of beachfront recreation facilities and natural habitat areas, the Town's marina, Sandy Bottoms, and other open space.
- Minimize the impact of beach and Town traffic on residents and work to improve the safety of pedestrians and bicyclists.
- Support the preservation and maintenance of the Town's historic homes, structures, and resources, including at the Rehoboth Art League.

The implementation plan for the Town of Henlopen Acres focuses on management and investment, since there is no land use change recommended by the plan. The pattern of land use is set in the Town of Henlopen Acres by both deed and zoning ordinance. The plan recommends retaining the small beach town character in the Town, particularly for the new and redeveloped properties as they are built.

The Town of Henlopen Acres does not expect any significant growth in housing. The trend in Sussex County has been that beach-area homes are increasingly becoming full-time residences. The Town will continue to monitor the usage of public services to determine if year-round living impacts the water, sewer, or security services.

The plan recommends that the Town not annex at the present time and that land use within the Town remain residential. The Town pays close attention to specific properties surrounding the Town, including the Rehoboth and Lewes Canal, of which one half of the width adjacent to the Town was annexed in 1973. The Town also monitors Deauville Park and the forested lot across the street from it that is owned by the State Division of Parks and Recreation. Efforts should be made to ensure that this undeveloped lot remains open space, as currently zoned by the City of Rehoboth Beach.

The Town has significant responsibilities for the preservation of its recreational and historic resources. The plan recommends that the Town continue to investigate methods to maintain the beachfront area and work in coordination with the Beach Club and HAPOC as well as state and federal agencies as appropriate to ensure the continued effectiveness of the jetty on the beach in front of the Henlopen Acres Beach Club as well as the dunes at the Block W beach. The plan also recommends the Town strive to assure the preservation of the historic Peter Marsh House ("The Homestead") and other existing structures on the Art League campus and review any Art League plans to alter or renovate them.

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## RECOMMENDATIONS

### 1. Rehoboth Art League Properties

The plan recommends that the Town continue its efforts to support the preservation and maintenance of the Art League properties for their use as an arts institution. Consistent with the Covenants of the 1930 and 1982 deeds, both parcels of the Art League can only be used as an art gallery, art school, or community purpose. The Plan suggests evaluating the merits of establishing an historic district or zone for both Lots 1 and 2. Lot 1 already has significant historic restrictions due to the Homestead and its status on the National Register of Historic Places, and Lot 2 has many historic structures and landscaping elements. The Plan further suggests that the Homestead, accessory structures, landscape, and gardens, consistent with restrictions imposed by the Chancery Court, not be modified significantly as to diminish the historic characteristics of the property or as a departure from the residential character of Henlopen Acres.

If the Rehoboth Art League, Inc. ceases to exist, the properties should continue to have the same restrictions for use as set forth in the 1930 and 1982 deeds, which include residential. The RAL confirmed in 2014 and in more recent discussions with the Town that it has no intention to change or expand the nature of its activities in Henlopen Acres, or to increase the frequency or intensity of its activities. The Art League has also confirmed that it does not desire to change its zoning as legally nonconforming in a residential zone, or expand or change its facilities in Henlopen Acres but wishes to be assured of its ability to maintain and update its facilities as necessary, without changing their size or use. The Town is supportive of the Art League's efforts to continue its legacy as a vital arts center in the State.

### 2. Beachfront Areas and Dunes

The dunes along the two beaches in the Town and the protective jetty at the Beach Club are essential to protecting the Town from flooding. The Town should work closely with the Henlopen Acres Beach Club and the Henlopen Acres Property Owners Corporation to ensure that sand fences are maintained, and dune grass is regularly planted to keep the dunes intact. The Town should also work with the Beach Club to have an engineering inspection of the jetty every five to seven years to ensure its structural integrity.

### 3. The Marina

The Town should continue to investigate remedies to silting in the Marina which has required full dredging every eight to ten years. The Town has collaborated with other coastal towns and Federal officials in support of the Lewes and Rehoboth Canal being dredged, which could decrease silting in area marinas. The Town's current plan is to apply for permits and complete a large maintenance dredge after the Army Corps and DNREC performs Canal dredging in 2025-26. The ability to dispose of sediment through beneficial reuse would assist in future dredges and efforts to secure DNREC approval for this should be continued.

4. Sandy Bottoms and Storm Drainage

The Sandy Bottoms waterway that connects to the Canal and flows behind the first and second blocks of Tidewaters should be well-maintained by the Town. This includes removing fallen limbs for the safety of those using it for recreation. In addition, invasive species should be controlled to prevent overgrowth that could affect water flow and hamper drainage. A bi-annual cleanout of sediment and debris from submerged stormwater outfalls is advised, including installation of bar-guards on submerged pipe outfalls. The Town should conduct this drain cleaning regularly at a frequency of 7-10 years as recommended by Public Works staff. The Town should also consider how it can assist Tidewaters residents who are seeking Sandy Bottoms to be dredged due to silt-build up along the shoreline near their docks, with residents paying the costs of such dredging.

5. Water Supply

In 2021, the Town completed a water service interconnect with the City of Rehoboth Beach water system to ensure uninterrupted water service. In 2022, a new SCADA software system was installed to provide better control and surveillance over the Water Plant. The Town complied with cross-connection control guidelines in 2023 and completed the Lead Service Inventory in October 2024.

The Plan recommends that the Town develop an action plan to address PFAS traces found in two wells with the Emerging Contaminants Grant received from the State Public Health Division in October 2024. The Town should continue to work with staff from the State Technology Office to address cybersecurity issues and apply for grants to fund any needed equipment and software enhancements. The Town should explore having a smaller number of larger wells for greater protection from possible contamination from adjacent residential lots.

6. Tree Canopy

The Plan recommends that the Town continue its active program to maintain the dense tree canopy, including planting and maintaining trees on the Town rights-of-way. A total of 162 trees have been planted since 2016. The Town should encourage residents to care for trees on private property by utilizing the free arborist evaluation service. The Town should work with owners who are constructing new homes to retain existing canopy trees and plant new trees to ensure a vibrant treescape on every lot.

7. Environmental Concerns

To deal effectively with sea level rise, the Town should create a subcommittee of the Planning Commission to study potential vulnerabilities to critical infrastructure and resident property and explore options to strengthen resiliency to flooding. This may include additional bulkheads along the Canal and measures to encourage pervious surfaces in driveways. The Plan recommends purchasing hybrid or electric vehicles for Security patrols as current vehicles are replaced. It also recommends having a preferred trash and recycling vendor to reduce truck traffic, air pollution, and noise pollution. To reduce noise and emissions, the Town should enact rules to require electric hand-held landscape equipment such as leaf blowers after most local communities adopt such measures.

8. Building Code

The Planning Commission and the Board of Commissioners should consider a review of all zoning ordinances to assess enforceability and ease of compliance. The Planning Commission will make a continuing effort to simplify the Code for better understanding by residents, owners, and contractors to facilitate compliance. AECOM was hired in 2023 as the Town's Zoning Officer for major building permit applications and has begun work on this effort to update and clarify the Code.

9. Fire Protection

The Plan recommends installation of fire hydrants in the Town to improve fire protection for residents and their property. A feasibility study performed in 2019 by KCI devised a 12-hydrant system that was included in the Town's Capital Improvement Plan. The Town adopted a \$50 annual assessment in 2023 on each developed lot to support the fire and rescue services of the Rehoboth Beach Volunteer Fire Company.

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## **ADDITIONAL CONSIDERATIONS**

The Town holds several leases with the Army Corps of Engineers for use of property adjacent to the Lewes and Rehoboth Canal (expand). These leases were reviewed for continued compliance by all parties (Glenn Mandalas reviewing). It is recommended that the Town clarify that all Zoning Code ordinances and building permit processes, including for docks and bulkheads, apply to Army Corps property.

At the present time, the Federal Government has authorized leases for two large offshore windfarms off the coast of Delaware by U.S. Wind and Orsted. With energy purchase agreements from the Maryland Public Service Commission, these windfarms will impact the viewshed of the Delaware shoreline. The Town should continue working with coastal officials to stay informed of these and other projects. The Town conducted a forum for residents on these offshore wind projects in August 2024 and will hold additional forums as the projects progress.

## **COORDINATION**

The Town will continue to collaborate with the Office of State Planning Coordination, to coordinate with the state agencies, and participate on appropriate state committees as needed. The Town holds a Memorandum of Understanding with Sussex County to coordinate on issues related to land use planning, traffic impact and public services (see Appendix<sup>13</sup>), and with Sussex Conservation District on drainage review for new construction. The Town should also coordinate with the City of Rehoboth Beach on land use decisions along the Town's southern border. Particular attention should be paid to the use of Deauville Park and the property across the road from the Deauville Park entrance. The plan recommends that this property, immediately adjacent to the Town, remain permanently as passive open space, and that the Town seek assurances from the State.

## **ADD COMMENTS FROM NEIGHBORING JURISDICTIONS**