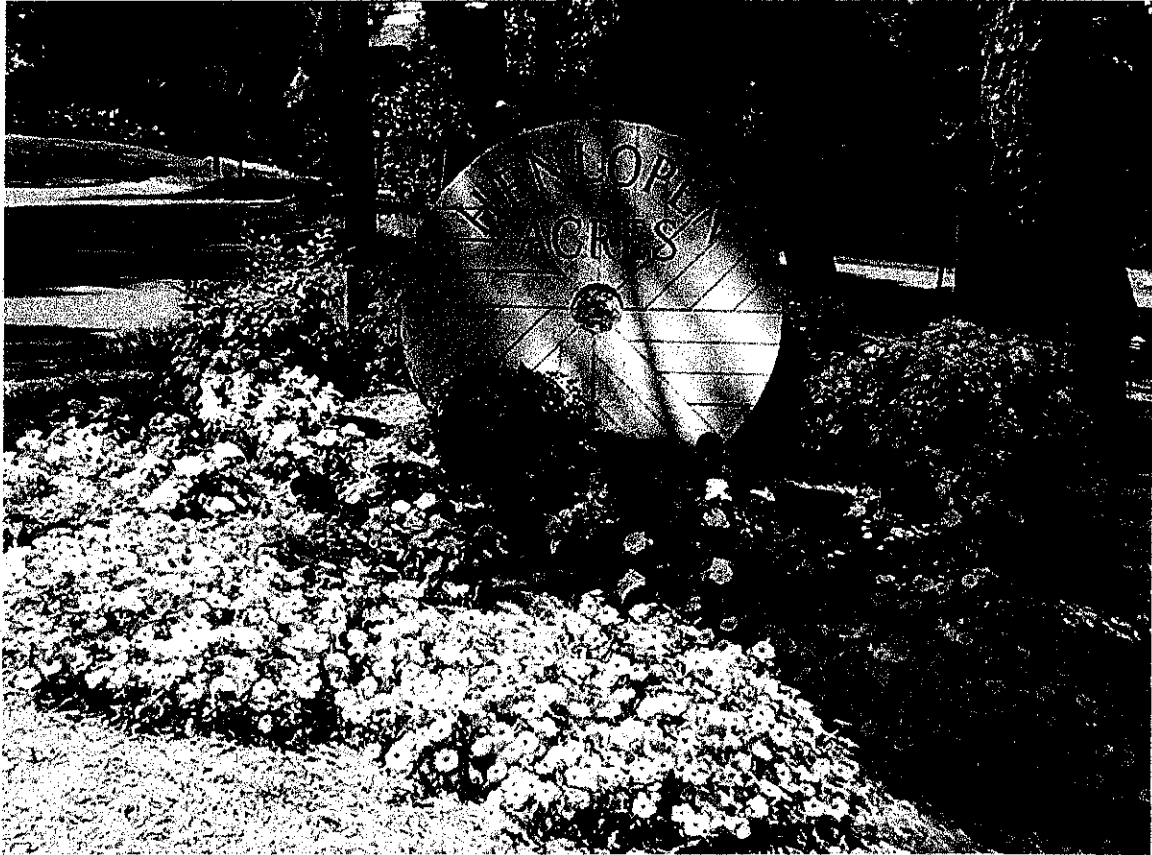


**Town of  
Henlopen Acres**



**Comprehensive Plan**

**2014**

# Town of Henlopen Acres Comprehensive Plan

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

### **Town of Henlopen Acres**

#### **Mayor and Council**

David Lyons, Mayor  
Frank Jamison, President pro tempore  
Andrew Brittingham, Commissioner  
Timothy Hidell, Commissioner  
Joni Reich, Commissioner  
Beatrix Richards, Commissioner  
John Staffier, Commissioner

#### **Planning Committee**

John Scheurer, Chairman  
Gordon Kaiser  
Mary Jane Lyons  
Robert Reed  
Richard Thompson

#### **Town Solicitor**

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

#### **Town Staff**

Thomas Roth, Town Manager  
Lisa Michaels, Town Clerk  
R. Lee Stewart, Security Supervisor  
Alexander McClure, Public Works Manager

### **Sussex County**

#### **Council Representatives**

The Honorable Michael H. Vincent, 1st District, President  
The Honorable Samuel R. Wilson, Jr., 2nd District, VP  
The Honorable Joan R. Deaver, 3rd District  
The Honorable George P. Cole, 4th District  
The Honorable Robert B. Arlett, 5th District

#### **County Administrator**

Todd Lawson

### **State of Delaware**

#### **Governor**

The Honorable John A. Markell

#### **Senate**

Senator Ernesto B. Lopez, 6<sup>th</sup> District

#### **House of Representatives**

Representative Peter C. Schwartzkopf, 14<sup>th</sup> District

#### **Office of State Planning**

Constance S. Holland, AICP, Director

#### **Coordination**

## **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 with seven (7) members with one Commissioner elected to be the Mayor and President of the Commission. 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 property owners and residents are eligible to vote in municipal elections. All other offices are by appointment. -Appointments are made by the Mayor and approved by a majority of the Commissioners.

The Town Charter empowers the Town to provide government services to maintain its peace and order, its sanitation, beauty; 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 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. The Mayor has the power to 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 hire and empower a Town Manager with duties prescribed by the Commissioners. The fiscal year for the Town of Henlopen Acres is from July 1<sup>st</sup> of one year to June 30<sup>th</sup> of the next year.

# **COMPREHENSIVE DEVELOPMENT PLAN FOR THE TOWN OF HENLOPEN ACRES, DELAWARE OCTOBER 2014**

## **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 population 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.

## **Public Participation**

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 Commission in January 2004 for public review and comment. The plan was approved at the July 2004 Town Commission meeting and certified by the State of Delaware on July 9, 2004.

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, December 7, 2011 and June 27, 2014, in preparation for submission to the State of Delaware PLUS system. In 2011, residents and non-residents submitted verbal and written comments. Of the comments received most centered on the issue of the Rehoboth Art League. 27 comments were received from the 211 residents and property owners. Of those, 11 supported a new zoning district for the Rehoboth Art League. 16 residents and property owners were opposed. There were also comments from 25 non-residents supporting the Rehoboth Art League.

In 2014, another public hearing was held. Again comments centered on the Rehoboth Art League. 14 residents expressed concern for the continued existence of the Rehoboth Art League, with most indicating a desire that the Art League continue to prosper but not expand its facilities or activities in Henlopen Acres. Four residents and property owners were opposed to any change in zoning for the Art League property. The representatives of the Rehoboth Art League stated that the Art League did not intend or desire to expand its facilities or activities in Henlopen Acres.

In addition, members of the Planning Commission and at times accompanied by one or two Town Commissioners, met with an official or officials of the Rehoboth Art League 12 times from July 7, 2014 to October 27, 2014. Approximately 6 of the meetings were to discuss the RAL's activities and desires for a new Cultural Zone and 6 of the meetings were with immediate neighbors of the RAL. The meetings with the immediate neighbors were arranged so that the RAL could hear firsthand the thoughts of the immediate neighbors on the RAL's campus and activities. Universally, the immediate neighbors were concerned about the perceived growth of events on the RAL campus and the increased traffic. Generally everyone likes the RAL campus the way it is (i.e. no material change or expansion of facilities) and they do not want any additional activities or traffic creating events. Throughout these meetings the RAL has affirmed its position that it does not intend or desire to expand or change its facilities in Henlopen Acres, but wishes merely to be assured of its ability to maintain and update its facilities as necessary, without changing their size or use.

Based on these meetings, on detailed information provided by the Art League regarding its activities in Henlopen Acres over the past several years and valuable input provided by the Planning Commission in conjunction with the Board of Commissioners, a Memorandum of Understanding was drafted to develop and clarify specific rules and regulations that apply to the RAL and its activities going forward under its current legal non-conforming status. (See Appendix A)

## **Community Overview**

### **Location**

The Town of Henlopen Acres, Delaware, is located in eastern Sussex County. It is north of the City of Rehoboth Beach, east of the Lewes and Rehoboth Canal, and west of the Atlantic Ocean.

### **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 Marsh family. The property again changed hands in 1871, when it came into the Dodd family. It was not again transferred until 1930, when W. S. Corkran took title and began development 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 local name "Henlopen" came to mind as one of the greatest distinction<sup>1</sup>. Nothing could be more fitting than to name the development after that world-known old Henlopen Light, which had stood for 200 years within sight of the property and less than half-a-dozen miles away, across 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.

The initial residential plots laid out by Corkran himself, had a frontage of approximately 150 feet and depth of 170 feet. The variation in the lot sizes permitted the natural placement of roads and houses on the land in relation to the terrain, trees, and views, avoiding monotonous and unsightly rows of houses on a definite set-back 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. The advantages of the Henlopen Acres residential site developed in 1930 were defined by its owner 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 1930—ample size of lots, with one family residence only on each lot, areas specified for community garage, stable, clubs, etc.

In 1970, the Charter of the Town of Henlopen Acres was approved by the State of Delaware. It has 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.)*

## **Historic and Significant Properties<sup>2</sup>**

### **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>3</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.)*

Marsh was an ensign in the Sussex County Regiment for the southern district of Lewes and Rehoboth Hundred during the French and Indian wars. When he died in 1769, he left a large estate of more than 2,000 acres in Sussex County, to his son, Thomas Purnell, he left the tract of the land called Young's Hope and 300 acres. When Thomas Purnell died in 1821, he left the northwestern portion of his inherited tract of land, together with the mansion house, to his son, also named Thomas Purnell Marsh.

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 1930, 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.

### **Henlopen Acres Beach Club**

The Henlopen Acres Beach Club is located at the northern beachfront property. This property comprises 3.813 acres. The original deed that conveyed the property for the use of the Henlopen Acres Beach Club, Inc., set specific conditions on the use and regulation of the property for use as beach club for the enjoyment of its members who may be residents. The Commissioners of the Town of Henlopen Acres have the authority to regulate the erection, maintenance, and use of buildings, structures, or other erections in a manner consistent with the use of the property as a community beach club. The Henlopen Acres Beach Club property is Sussex County tax parcel number 3-34 14.05 121. The beach club assesses its own dues and initiation fees and pays County and Town taxes. The Plan recommends no changes to the use of the beach club.

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

The property commonly referred to as Block W is the oceanfront property south of the Henlopen Acres Beach Club. This property is Sussex County tax parcel identification number 3-34 14.05 120. The property comprises 8.82 acres.

The property is subject to the following deed conditions. The Henlopen Acres Property Owners Corporation (HAPOC) must be and remain a Delaware corporation, and all Henlopen Acres property owners are members. Property owners are, however, responsible for an assessment not to exceed one hundred dollars, to be used to maintain the property and defray administrative expenses. The Block W 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. The HAPOC retains the enjoyment of this property as long as the conditions of the deed are met. If the HAPOC becomes defunct, or if it fails to file or pay the taxes on the property or fails to keep the property reasonably tidy, then ownership shall revert to the University of Delaware. If the conditions of the deed are not met, and the property transfers to the University of Delaware, the property cannot be transferred or sold and must be still kept in its natural state; the erection of a public bathhouse, restrooms, or other facilities can be done only with the approval of the HAPOC, which annually supplies a copy of tax filings to the Town to ensure compliance.

The Plan recommends no changes to the use of Block W or HAPOC and that the Town continue to encourage its maintenance and preservation.

### **Community Marina**

The Town has a community marina on Tidewaters along the Rehoboth and Lewes Canal. This property is Sussex County tax parcel identification number 3-34 14.09 10.00 in Block Q, consisting of 2.38 acres. This property is operated for residents and non-residents as defined by the Henlopen Acres Board of Commissioners. A portion of the property designated in the 1930 deed has been subdivided into residential lots 3-34 14.09 10.01, 3-34 14.09 10.02, and 3-34 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 changes to the use of the Marina.

### **Rehoboth Art League and The Homestead**

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. It is comprised of five buildings including the Homestead. The League holds exhibits, classes and other activities. The use of the Homestead by the Rehoboth Art League, Inc., is governed by the covenants of 1930 and 1982, deed restrictions and by the Zoning Code and is considered a grandfathered non-conforming use.

The properties controlled by the Rehoboth Art League, Inc., are Sussex County tax parcels number 3-34 14.09 56.00, which is approximately 2.027 acres (Lot 1 Block J) and includes the Homestead and parcel number 3-34 14.09 57.00 which is approximately 1.661 acres (Lot 2 Block J) These properties are exempt from Sussex County and Town taxes. Upon Colonel 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 it's President or faculty as a summer home and that the property would be maintained perpetually by the University in such condition as will respect its authentic character and furnishing as a colonial Sussex County Seat. On May 18, 1979, the Delaware Chancery Court approved the transfer of the Homestead property (Lot 1) to the Rehoboth Art League, Inc. because the University had been unable to use the property as Colonel Corkran had desired. The transfer was conditioned such that, if however the Rehoboth Art League should cease to exist, the property reverts to the University of Delaware. Lot 2 was transferred on September 26, 1947 to the Rehoboth Art League without restriction.