



Ulster County

Non-Motorized Transportation Plan

Task 3 - Policy and Programs: Best Practices Summary Report

May 30, 2007



Task Description

This report provides a summary of policies and programs for the Ulster County Non-Motorized Transportation (NMT) Plan. The Plan will serve as a guide to the County for identifying and prioritizing NMT projects, and funding, constructing, and maintaining the NMT system. The plan will define a NMT system within Ulster County that will enhance multi-modal transportation, connect urban and rural areas, and increase recreation and conservation opportunities in the County.

The NMT Plan Scope defines this task under Task 3: Policy and Programs, as follows:

This task will identify general policy issues associated with non-motorized transportation, and develop policy models that can be adopted by Ulster County, UCTC, and local municipalities. These policies and programs will enable communities, agencies, and governmental entities to implement elements of the non-motorized transportation infrastructure. The model policies will address the planning, construction, and/or maintenance of non-motorized transportation facilities, including sidewalks, bikeways, and trails.

The Policy and Program report will include sections on maintenance agreements among two or more municipalities, insurance requirements, liability and law enforcement issues, climatic concerns, and safety and operating issues. The report will identify model programs for promoting bicycle and pedestrian use, water usage/trails, and other forms of non-motorized transportation and provide a 'best practices' guide for Encouragement, Enforcement, and Education programs such as the League of American Bicyclists' 'Bicycle Friendly Communities' Award program, the Initiative for Healthy Infrastructure (iHi) at UAlbany, the New York State Governor's Traffic Safety Committee / AAA "Share the Road" initiative, and other similar policy and program related projects.

General Policy Recommendations

Infrastructure Policy: Complete Streets

There is a growing movement in the U.S. to integrate non-motorized transportation into ongoing road and transit projects. This movement has taken the name of "Complete Streets." At the national level, the US Department of Transportation (USDOT) developed a model bicycle and policy framework in 2001. This policy is based on the principle that bicyclists and pedestrians have the right to move along or across all roadways unless specifically prohibited from doing so. The national policy has served as guidance for State DOT's and public works agencies throughout the U.S. It has recently evolved into the concept of "Complete Streets" – the idea that streets are only complete when they address the needs of all modes of transportation, including walking and bicycling.

The USDOT 2001 Policy Statement says that, "Bicycle and pedestrian ways shall be established in new construction and reconstruction projects in all urbanized areas," unless specific exceptions can be established. At the state level, the American Association of Highway and Transportation

Officials (AASHTO) provides guidelines for State Departments of Transportation which are widely accepted for use throughout the U.S. The AASHTO 1999 *Guide for the Development of Bicycle Facilities* includes the following policy guidance:

“All highways except those where cyclists are legally prohibited, should be designed and constructed under the assumption that they will be used by cyclists. Therefore, bicycles should be considered in all phases of transportation planning, new roadway design, roadway reconstruction, and capacity improvements and highway projects.”

AASHTO also produces national Pedestrian Design Guidelines, and their *Policy on the Geometric Design of Highways and Streets*, (a.k.a. “The Green Book”) is considered the ‘bible’ of the highway design profession. The AASHTO Green Book contains the following statement about including pedestrians in the design of highways:

“Pedestrians are a part of every roadway environment and attention must be paid to their presence in urban and rural areas...Because of the demands of vehicular traffic in congested urban areas, it is often extremely difficult to make adequate provisions for pedestrians. Yet this must be done, because pedestrians are the lifeblood of our urban areas, especially in the downtowns and other retail shopping areas.”

The idea of “Complete Streets” is based on the premise that quality transportation facilities *“are designed and operated to enable safe access for all users. Pedestrians, bicyclists, motorists and bus riders of all ages and abilities are able to safely move along and across a complete street.”* A national coalition of organizations supporting this policy concept has formed to encourage adoption of Complete Streets policies. In New York State, NYSDOT has a bicycle and pedestrian policy that was adopted in 1996, but it is not as clearly defined as the 2001 USDOT policy or more recent Complete Streets approaches. At the County level, Ulster County has the ability to adopt a Complete Streets policy through the County Legislature or UCTC, and local municipalities can adopt similar policies at the Village, Town and City levels. The Initiative for Healthy Infrastructure (iHi) at UAlbany has developed a document called *Planning and Policy Models for Pedestrian and Bicycle Friendly Communities in New York State* that includes Complete Streets policies for local communities.

At the local level, these policies can be adopted to provide local government and agencies with the policy support to create non-motorized infrastructure as an integrated element of ongoing capital projects. This can include an integrated approach to providing paved shoulders on rural and suburban roads, sidewalks and crossings, bike lanes, shared-use paths, trails, access points, intermodal connections to bus, rail and ferry services, and bike parking. For example, New Paltz recently adopted a bicycle parking ordinance that requires bicycle racks to be installed as part of the community’s parking regulations. It is important to note that in many locations, existing rights-of-way are limited and paved shoulders, sidewalks or paths may not be feasible. In these cases, other alternatives including traffic calming and education / enforcements may be appropriate. At the County level, the following is a proposed “Complete Streets” policy that could be adopted by UCTC or the County Legislature.

Proposed Draft Ulster County Non-Motorized Transportation (NMT) Policy

Purpose:

County level policies can establish a model and provide useful guidelines for local municipalities. Since the County Planning Board and UCTC are responsible for funding and reviewing projects which cross municipal boundaries or have multi-jurisdictional impacts, a County bicycle and pedestrian policy will ensure consistency of design and operational characteristics of bicycle and pedestrian transportation systems.

Proposed Policy:

Ulster County hereby adopts the policy of “Complete Streets” as a guiding principle for our infrastructure. “Complete Streets” are defined as facilities that *“are designed and operated to enable safe access for all users. Pedestrians, bicyclists, motorists and bus riders of all ages and abilities are able to safely move along and across a complete street.”*

The County will support local communities in the development of a complete system of bikeways, pedestrian facilities and shared use paths, bicycle parking and safe crossings connecting residences, businesses and public places. The County will promote bicycling and walking for health, environmental sustainability, exercise, transportation and recreation.

Bicycle and pedestrian facilities shall be provided in new construction, reconstruction and maintenance projects in the County unless one of the following conditions is met:

- Bicyclists and pedestrians are prohibited by law from using the roadway. In this instance, bicyclists and pedestrians will be accommodated elsewhere within the right of way or within the same transportation corridor.
- The cost of establishing bikeways or walkways would be excessively disproportionate to the need or probable use. Disproportionate is defined as exceeding twenty percent of the cost of the larger project.
- In cases where the existing right-of-way does not allow for sidewalks, bike lanes, paths or other improvements, potential alternatives will include the appropriate use of paved shoulders, signage, traffic calming and/or enhanced education and enforcement.

Bicycle and Pedestrian facilities will be provided and maintained in accordance with guidelines adopted by the USDOT, NYSDOT and AASHTO. Site plan and subdivision reviews conducted by the county will incorporate these facilities. On county maintained roadways, bicycle and pedestrian facilities will be provided in accordance with this policy. County offices and public buildings will provide bicycle parking, lockers and showers in accordance with local zoning and planning regulations.

In addition to the broad “Complete Streets” approach to infrastructure, there are a range of other county-wide policy issues that relate to non-motorized transportation. The following sections provide an overview of these issues.

Funding: Currently, most NMT projects and programs are funded by local communities in Ulster County. While it is possible to include NMT improvements as integral elements of Complete Streets projects, there is still a need for developing stand-alone NMT projects. In cases where federal Transportation Enhancements funding is used for local NMT projects, the municipality is required to provide 20% in matching funds. This requirement is often a limiting factor in communities being able to implement NMT projects. Currently, New York State transportation funding (known as the Marchiselli Fund) is only eligible for projects that are within the public highway right of way. While this can include sidewalks, paved shoulders, bike lanes and intersections, it does not include shared-use paths that are on abandoned rail lines, utility corridors or other rights of way. The County can consider a range of alternatives to support funding of NMT projects. The options range from establishing a dedicated funding source using general revenues, to creating a bond act for NMT funding, to identifying a new revenue stream such as a real estate transfer tax or other fee. This funding could be used to provide the matching funds that local communities need to advance local components of the NMT system.

Maintenance Agreements: All infrastructure projects require maintenance, whether it is snow removal from sidewalks, sweeping debris from on-street bike lanes, or annual upkeep of trails. Projects located within a single municipality or jurisdiction can be maintained by single agency or department, and it is essential for the maintaining entity to be involved early in the planning process. For projects that cross multiple jurisdictions, there are several models available, including a) establishing a new operations agency, such as the Parks and Trails Department in Anne Arundel County, MD; b) creating a non-profit organization that maintains facilities under contract to a public agency, such as the Mountain Trails Foundation in Park City, UT; and c) developing an intermunicipal agreement coordinated by a County or Regional agency, such as the 42-mile Mohawk-Hudson Bike-Hike Trail in the Capital Region of NY State, which is maintained by municipalities along the trail.

Insurance Requirements: Most municipalities insure or self-insure their infrastructure as part of a broad municipal coverages. Trails which are operated by non-profit organizations (such as a water trail or mountain bike trail) can purchase supplemental insurance, but this can sometimes be difficult to acquire due to cost and availability issues. Volunteers working on public trails are generally insured by the non-profit or agency responsible for the trail. Community groups often seek permissions for trails to cross private lands in order to make key links in their local systems or to keep trails off busy roads. Many landowners are supportive in granting access, confident in the protection afforded by their homeowner's or commercial insurance coverage, as well as the protection afforded by the New York State General Obligations Law § 9-103. Other landowners have expressed a desire for additional liability coverage or protection. The Greenway Conservancy for the Hudson River Valley has purchased a commercial liability insurance policy as a tool to help local groups address this frequent obstacle to trail development. Greenway Trail Program Insurance is intended to

cover a landowner in the interim until a municipal or land-trust partner is ready and willing to take this role long-term.

Liability / Risk Management: Liability is often cited as a reason not to create trails or NMT facilities. For trails, adjacent landowners are protected by New York State’s Recreational Use Statute, General Obligations Law § 9-103, which states that,

“...an owner, lessee or occupant of premises, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep the premises safe for entry or use by others for hunting, fishing, organized gleaning as defined in section seventy- one-y of the agriculture and markets law, canoeing, boating, trapping, hiking, cross-country skiing, tobogganing, sledding, speleological activities, horseback riding, bicycle riding, hand gliding, motorized vehicle operation for recreational purposes, snowmobile operation, cutting or gathering of wood for non-commercial purposes or training of dogs, or to give warning of any hazardous condition or use of or structure or activity on such premises to persons entering for such purposes...”

This legal protection does not prevent a lawsuit from being filed, but it does provide significant protection to landowners adjacent to trails. A copy of the RUS is provided at the conclusion of this document.

Liability conditions also exist for on-street bike/pedestrian facilities. When the NY State Bike Route system was created in 1993, NYSDOT developed a legal brief to identify the Department’s response to liability concerns. The legal brief stated that since bicyclists have the legal right to be on the road, there was an exposure to liability created by either making improvements, or by failing to make improvements. Either way, liability exists, and it can’t be made to go away by doing nothing. A similar, and perhaps greater, exposure exists in regards to ADA compliance and pedestrians. Failure to comply with the ADA is a Civil Rights violation. In several recent cases (including Sacramento, CA and Honolulu, HI), federal courts have ruled that a municipalities cannot avoid providing ADA compliant facilities. The key to managing liability is risk management: integrating best design practices, ensuring that exceptions are well documented, and that compliance efforts are in place in accordance with appropriate guidelines.

Law Enforcement Issues: Perhaps the most important law enforcement policy issue is enforcing the rules of the road for pedestrians, bicyclists and motorists. In New York State, bicyclists have the same legal rights and obligations as motorists. This means that bicyclists have the right to be on the road, but that they also must obey the rules of the road. Bicyclists must travel in the same direction as motor vehicles, and obey signs and signals. Motorists must yield to pedestrians when pedestrians are in crosswalks. Enforcing these laws is a challenge, in part because there is no existing statewide education program to teach motorists, pedestrians and bicyclists about the requirements of NY State Vehicle and Traffic Law. When this issue is combined with the need to address other significant problems such as impaired driving, red-light running, road rage and other issues, it is often difficult to enforce the law within the limited resources available.

Climatic Concerns: Carbon Neutral Communities: As climate change becomes a major issue in the national media, local communities are realizing the role that non-motorized transportation can play in reducing energy use and dependence on fossil fuels. “Carbon Neutral” planning has become one of the tools for documenting the pollution reductions that communities can make as a response to creating sustainable solutions. A model Zero Carbon Initiative was approved by a resolution of the Woodstock Town Board in March, 2007. The nonbinding resolution called for "*implementing policies resulting in no net emission of carbon dioxide and other greenhouse gases" by 2017.*" This policy approach can include increased use of non-motorized transportation as a component of a Zero Carbon environmental strategy.

Safety / Crash Reduction: There are a wide range of policies that address goals for improving traffic safety. These include the U.S.D.O.T. national goal of reducing pedestrian and bicyclist crashes by 10%, which was adopted into the 1996 NY State Bicycle and Pedestrian Plan. In other nations, such as Sweden, the national goal is the elimination of traffic fatalities – their policy is have strict enforcement of traffic laws and significant investment in safety projects and programs. These policy level issues affect infrastructure programs when decisions are made as to the appropriate solutions to address patterns of traffic crashes. Addressing pedestrian and bicyclist safety issues requires a detailed annual data program that tracks and identifies the locations and crash types of all fatalities and injuries, combined with infrastructure improvements, enforcement and education programs.

Operations and Management: Once a NMT system is developed, it requires an ongoing operations and management program. Operations includes safety patrols, security, activity programming, promotional efforts, education and outreach, routine litter patrol, annual safety reporting, and facilities condition management. A thorough management process will include an annual reporting program, assignment of staff responsibilities, interagency coordination, and the development of public-private partnerships. As with cooperative maintenance agreements, these tasks can either be centralized within an agency, developed through a non-profit, or in partnership with multiple organizations.

Specific Programs

For Ulster County, there are a wide range of programs available to support the development of the NMT system. These programs include the following examples:

Encouragement: There are a variety of existing events that involve walking and bicycling in Ulster County. Many of these are charity events that include walking and bicycling in fundraising for a wide range of causes such as the MS Society, American Heart Association, etc. Unfortunately, these events do not usually generate funding for walking and bicycling. Specific events such as The Hudson Valley Greenway Ramble, Bike to Work Week, National Trails Day and Earth Day offer annual events that can raise the profile of non-motorized transportation and recreation. Fun events such as a proposed “run, paddle and bike” triathlon or “car free days” could be developed as part of these efforts.

Enforcement: Community Policing has significantly increased the availability of local foot, equestrian and bicycle patrols in local communities. Volunteer trail patrols, such as the Gunks Mountain Biking Association (GUMBA), educate mountain bikers in appropriate trail etiquette, the International Mountain Bike Association (IMBA) rules of the trail, and land management regulations. GUMBA works to improve mountain bikers' relationship with the non-riding public, land management, and other trail user groups. For on-road safety issues, targeted law enforcement by state, county and local police agencies could involve specific actions to reduce violations of laws such as the NY State Yield to Pedestrians law, or bicyclists' rights of way. Community Policing programs can include police on bikes, equestrian and foot patrols to facilitate the connection between officers and the public.

Education Programs: Education takes on a wide connotation, from teaching safe trail use, to learning to ride a bike, a horse or to paddle a canoe, to sharing the road for bicyclists, pedestrians and motorists, to Safe Routes to Schools Programs. An example that holds promise for Ulster County is the “Share the Road” motorist education program developed by the New York Bicycling Coalition in cooperation with the Governor’s Traffic Safety Committee and AAA. This award winning-program integrates pedestrian and bicyclist education into the driver point-reduction programs offered through AAA clubs in NY State. This provides an opportunity to educate motorists who are already receiving necessary supplemental safety training. Another potentially useful program is the new “Complete Streets” seminars being offered by the Cornell Cooperative Extension Local Roads Program in cooperation with the NY State Association of Highway Superintendents. This program educates engineers and road designers about how to include non-motorized solutions into ongoing projects.

Other programs that are available from national organizations include “Leave no Trace” which provides educational materials to encourage environmental stewardship, and the “Share the Trail” program of the International Mountain Bike Association (IMBA), which provides safety programs to encourage shared use of trails by pedestrians, bicyclists and equestrians.

League of American Bicyclists’ “Bicycle Friendly Communities” Program: The national BFC program provides a detailed review of all aspects of making a community more bicycle friendly: education, engineering, encouragement and evaluation. A community must achieve quality results in all of these areas in order to receive one of the LAB’s bronze, silver, gold or platinum awards. While many communities in Ulster County are just beginning to move these ideas forward, the application process provides a useful tool for understanding a community’s status, and benchmarks for achieving the awards in the future.

Initiative for Healthy Infrastructure (iHi) at UAlbany: This program of the Department of Geography and Planning has developed local planning and zoning regulations that can be adopted by local communities to implement complete streets, bicycle parking, and safe routes to schools policies at the municipal level in New York State. Additional information is available at www.albany.edu/iHi.

Parks & Trails New York (PTNY): PTNY is a statewide organization that provides resources and tools for local organizations. Their programs include Accessible Parks & Trails, Healthy Trails Healthy People, and a variety of outreach and technical assistance programs. Additional information is available at <http://www.ptny.org/>.

Hudson Valley Greenway: The Hudson River Valley Greenway is an innovative state agency created to facilitate the development of a voluntary regional strategy for preserving scenic, natural, historic, cultural and recreational resources while encouraging compatible economic development and maintaining the tradition of home rule for land use decision-making. The mission of Hudson Valley Greenway is to *Preserve, enhance and develop the world-renowned scenic, natural, historic, cultural and recreational resources of the Hudson River Valley*. Ulster County has developed a Greenway Compact with communities along the River. The Greenway has created the Hudson River Water Trail, and provides technical support for trail planning in communities along the River. Additional information is available at <http://www.hudsongreenway.state.ny.us/>.

The New York State Recreational Use Statute

New York Consolidated Laws
GENERAL OBLIGATIONS LAW
ARTICLE 9: Obligations of Care
TITLE 1: Conditions on Real Property

9-103. No duty to keep premises safe for certain uses; responsibility for acts of such users

1. Except as provided in subdivision two,

a. an owner, lessee or occupant of premises, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep the premises safe for entry or use by others for hunting, fishing, organized gleaning as defined in section seventy- one-y of the agriculture and markets law, canoeing, boating, trapping, hiking, cross-country skiing, tobogganing, sledding, speleological activities, horseback riding, bicycle riding, hand gliding, motorized vehicle operation for recreational purposes, snowmobile operation, cutting or gathering of wood for non-commercial purposes or training of dogs, or to give warning of any hazardous condition or use of or structure or activity on such premises to persons entering for such purposes;

b. an owner, lessee or occupant of premises who gives permission to another to pursue any such activities upon such premises does not thereby

(1) extend any assurance that the premises are safe for such purpose, or

(2) constitute the person to whom permission is granted an invitee to whom a duty of care is owed, or

(3) assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

c. an owner, lessee or occupant of a farm, as defined in section six hundred seventy-one of the labor law, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep such farm safe for entry or use by a person who enters or remains in or upon such farm without consent or privilege, or to give warning of any hazardous condition or use of or structure or activity on such farm to persons so entering or remaining. This shall not be interpreted, or construed, as a limit on liability for acts of gross negligence in addition to those other acts referred to in subdivision two of this section.

2. This section does not limit the liability which would otherwise exist

a. for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity;
or

b. for injury suffered in any case where permission to pursue any of the activities enumerated in this section was granted for a consideration other than the consideration, if any, paid to said landowner by the state or federal government, or permission to train dogs was granted for a consideration other than that provided for in section 11- 0925 of the environmental conservation law; or

c. for injury caused, by acts of persons to whom permission to pursue any of the activities enumerated in this section was granted, to other persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

3. Nothing in this section creates a duty of care or ground of liability for injury to person or property.