

ESSENTIALS OF LAND USE PLANNING AND REGULATION

APRIL 22, 2026



LAND USE LAW CENTER AT PACE LAW

Dedicated to fostering the development of sustainable communities through the promotion of innovative land use strategies and collaborative decision-making techniques.



AGENDA

5:30 – 5:35 Welcome/Introductions

Please be sure to sign in and out for CLE credits & pick up certificates at end for land use board training credits.

5:35- 6:25 Approaching Zoning & the Local Land Use System

Jessica A. Bacher, Esq., Executive Director, Land Use Law Center

The basics of the land use system and the connection of land use to the protection of natural resources, climate resiliency and community growth. Focus will be on considerations for drafting new zoning ordinances, including model laws, responsibilities of board members, and drafting local code.

Community Goals and the Comprehensive Plan

Tools for Achieving Municipal Goals, including the Protection of Natural Resources

Zoning, Subdivisions and Site Plan Review

AGENDA

6:25-6:40 BREAK

6:40 -7:10 The New 2025 NYSDEC Wetland Regulations

Rhea N. Mallett, Esq., Partner, McCarthy Fingar LLP; Consultant, Land Use Law Center

7:10-8:30 Exceptions to Local Zoning

Rhea N. Mallett, Esq., Partner, McCarthy Fingar LLP; Consultant, Land Use Law Center

Leo Dorfman, Esq. Partner, Sokoloff Stern LLP

The history and basics of common exceptions to local zoning regulations.

NYS Preemptions, Common Law Exceptions for Educational and Religious Institutions and Federal Impacts



**WHO'S IN THE ROOM
NAME, POSITION,
YEARS**

AGENDA

5:35- 6:25

Approaching Zoning & the Local Land Use System

Jessica A. Bacher, Esq., Executive Director, Land Use Law Center

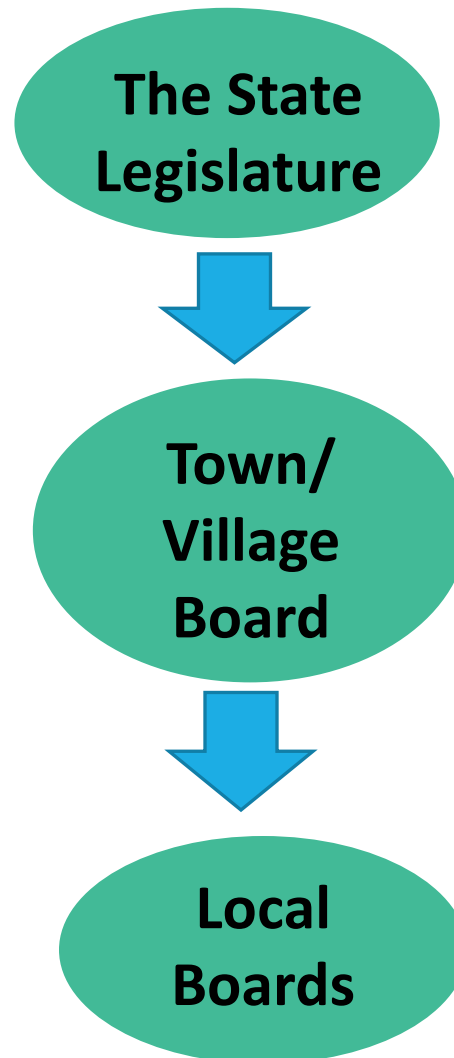
The basics of the land use system and the connection of land use to the protection of natural resources, climate resiliency and community growth. Focus will be on considerations for drafting new zoning ordinances, including model laws, responsibilities of board members, and drafting local code.

Community Goals and the Comprehensive Plan

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THE DELEGATION OF LEGISLATIVE AUTHORITY



THE LAND USE LEGAL FRAMEWORK

The New York State land use enabling act delegates authority to

LOCALITIES to:

- Adopt comprehensive plans
- Zone
- Approve subdivision and site plans
- Issue special use permits
- Award variances

THE LAND USE LEGAL FRAMEWORK . . .

Federal and New York State laws to **PREEMPT** or limit local land use authority regarding issues, such as:

- Utility siting
- Cellular facilities
- Religious uses
- Group homes



ROLE OF LOCAL GOV'T & PLANNING

Source: NREL

1,550+ local jurisdictions in NY
With land use authority

COMPREHENSIVE PLANNING



WHAT WE USE THE LAND USE SYSTEM TO ACCOMPLISH . . .

“Among our most important powers of local government is the responsibility to undertake **comprehensive planning** and to regulate land use to protect the public health, safety and general welfare.”

N.Y. Town, Village, General City Law

WHAT IS A COMPREHENSIVE PLAN?

- A written document formally adopted by the local legislature that contains **goals, objectives** and **strategies** for the **future** development and conservation of the community.
- Planning also helps communities adjust to **new needs**—such as changing technology.

ZONING

Zoning Must
be in
Accordance
with the
Comprehensive
Plan



Landuse		
1 Family Residential	Multiple Residential	Institutional
2 Family Residential	Mixed-Use	Open Space/Community Services
3 Family Residential	Vacant	Cemetery
Mfg Housing	Commercial	Industrial
	Recreation and Entertainment	Forest
		DRI boundary

COMPREHENSIVE PLAN STRUCTURE

Then



Now





Town of
NEW CASTLE
New York

Livable Built Environment



Harmony with Nature



Resilient Economy

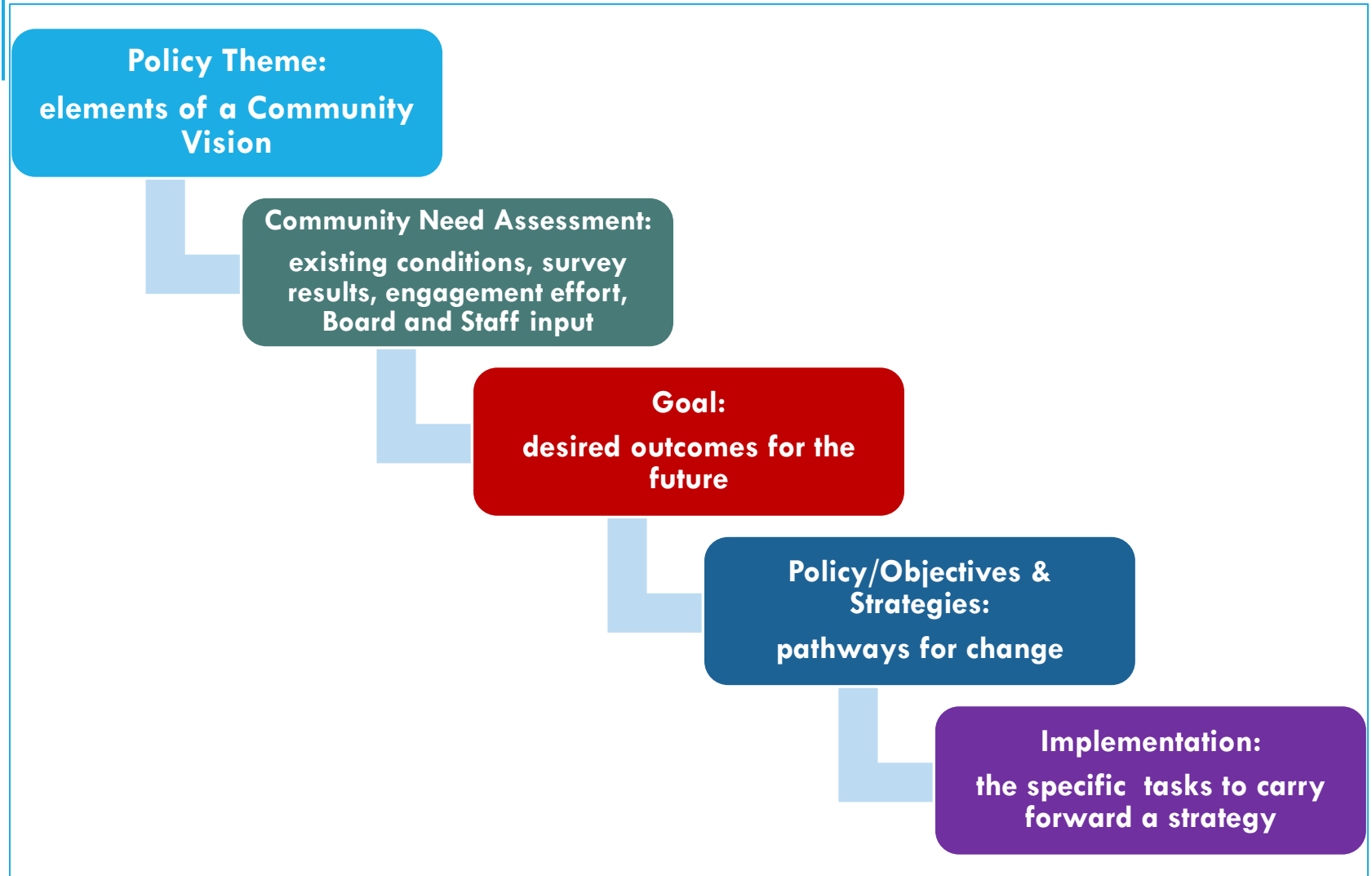


Healthy
Community



Responsible Regionalism

ANATOMY OF A COMPREHENSIVE PLAN



ANATOMY OF A COMPREHENSIVE PLAN POLICY FRAMEWORK

Goal: *A desired outcome*

ENHANCE RECREATIONAL AND OPEN SPACE RESOURCES

Policies/Objectives: *Approach to achieving the goal*

Optimize performance of athletic facilities

Strategies: *Potential regulatory, programmatic, physical or operational changes that can be considered*

- Redesign, renovate, and maintain existing athletic facilities
- Explore potential for creating new athletic facilities
- Adopt operational changes and user fee modifications that maximize utilization, inclusiveness and accessibility of recreational facilities

RE GOAL 1: PRESERVE THE SCENIC, VISUAL, AND ECOLOGICAL VALUES OF OPEN SPACES, NATURAL AREAS, TREES, WETLANDS AND VEGETATION.

RE Policy 1a: Limit the adverse impacts of human activity and development on the Town's natural resources

- Action: Protect the Town's open space, wetlands, and natural areas
- Action: Maintain, protect, and expand trees and vegetation in the Town
- Action: Support efforts that protect and restore the quality and function of the Long Island Sound ecosystem
- Action: Reduce sources of noise and air pollution in the Town

RE GOAL 3: PREVENT AND MINIMIZE POTENTIAL FLOODING FROM EXTREME WEATHER EVENTS

RE Policy 3a: Undertake infrastructure improvements, natural resource preservation and community activities aimed at flood prevention.

- Action: Upgrade existing stormwater infrastructure
- Action: Promote community awareness about best practices in stormwater management
- Action: Preserve and restore natural protective features and natural resources

RE GOAL 4: MINIMIZE STORM DAMAGE TO THE BUILT ENVIRONMENT

RE Policy 4a: Adopt development practices that reduce the impacts on homes & community infrastructure from flooding, erosion, and sea level rise

- Action: Ensure new buildings, additions, expansions, and other structures are sited in a location that protects human lives and minimizes damage to property

PLANS, PLANS, AND MORE PLANS



OVERALL VISION

Build a Framework with the Comprehensive Plan as an Overarching Document

Recommendations Should Support Other Plans

Do Not Silo Initiatives or Plans



Best Practices for Adopting Conservation Inventories and Plans

A Guide for Communities in the Hudson River Estuary Watershed



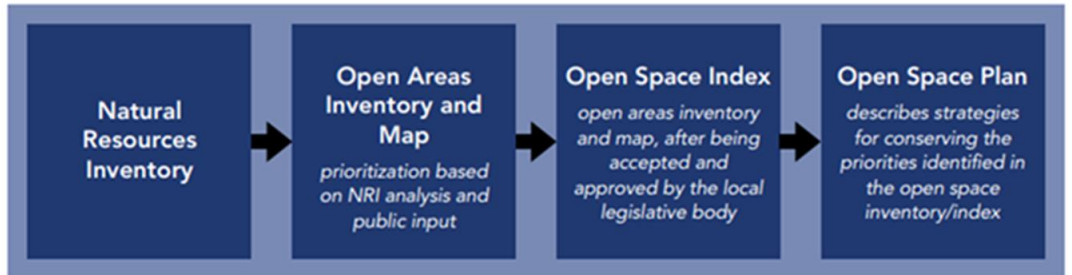
Cornell University



Department of Environmental Conservation

Hudson River Estuary Program

Integrated Planning Example



Inventory and prioritization of natural areas are essential steps in the process of identifying a community's open space conservation strategies.



Best Practices for Adopting and Implementing Natural Resources Inventories

How to amend the comprehensive plan to include the NRI

Municipalities can amend their comprehensive plan to include the NRI in several ways, such as:

- Making the NRI a stand-alone chapter or appendix in the comprehensive plan.
- Referencing the NRI in the comprehensive plan's vision statement and key issues.
- Summarizing NRI findings in a related planning chapter that addresses natural resources.
- Crafting goals and policies to protect important or priority features identified in the NRI.
- Explaining how to use the NRI together with the comprehensive plan to coordinate development that protects and enhances important natural resources.

Including the NRI in a comprehensive plan greatly increases community awareness of the NRI.

Examples of incorporating the NRI into a comprehensive plan

Town of East Greenbush, NY

When crafting its 2021 comprehensive plan, East Greenbush consulted its NRI, included a **summary** of the NRI in the plan, and also adopted the entire NRI in the plan's **appendices**. The public can access the plan with the appendices on the town's website. The NRI also informed a summary of existing conditions, a list of opportunities and challenges, and recommended planning actions featured in the natural resources chapter of the comprehensive plan. The town created a CAC from its NRI working group, and this new CAC is involved in the town's project review and approval process. The town's 2019 NRI is available online [here](#), and its 2021 Comprehensive Plan is available [here](#).

- The plan's natural resource recommendations include:
 - “Protect and conserve viewshed and rural character along scenic roadways as identified by the . . . Natural Resources Inventory.”
 - “Encourage smart growth and development to protect resources while boosting the economy and increasing the efficiency of project review. a. Work with the Planning Board and CAC to **develop development review procedures that consider natural resources**, such as checklists, site visits, and CAC member reports. Use the pre-application conference forum, ‘Project Review Team,’ to incorporate natural resource considerations early in the process and facilitate their becoming part of the culture of development review.”

IMPLEMENTATION OF THE COMPREHENSIVE PLAN

- What?
- Who?
- How?



<p>Proposed Actions</p> <p>* = alignment with Saw Mill River Revitalization Plan = alignment with Market Analysis & Development Strategy</p>	<p>Action Type (Zoning Study, Study & Analysis, Legislative Change, Outreach and Education, Interagency Coordination, Capital Improvement), Operational</p>	<p>Admin Feasible</p> <p>✓ = Definitely Feasible</p> <p>✓ = Possibly Feasible</p> <p>✓ = Infeasible at this time</p>	<p>Financially Feasible</p> <p>✓ = Definitely Feasible</p> <p>✓ = Possibly Feasible</p> <p>✓ = Infeasible at this time</p>	<p>Lead Respon</p>
<p>audit of the Village's development review process to ensure there are no common unnecessary redundancies, or confusing processes or requirements. *</p>	<p>S&A, O</p>	<p>✓</p>	<p>✓</p>	<p>Building Insp</p>
<p>streamlined process to facilitate development in the Central Business District. *</p>	<p>S&A, LC, O</p>	<p>✓</p>	<p>✓</p>	<p>Building Insp</p>
<p>"Redevelopment Guidebook" for property owners/developers that identifies the development review process, permitting, zoning/design requirements, and *</p>	<p>O</p>	<p>✓</p>	<p>✓</p>	<p>Building Insp</p>
<p>vacant Property Registration Ordinance (VPRO) that mandates registration of properties and has escalating annual fees as a way to ensure code compliance and safety while encouraging redevelopment. *</p>	<p>S&A, LC, O</p>	<p>✓</p>	<p>✓</p>	<p>Building Insp</p>
<p>with the Westchester County Local Development Corporation, on redevelopment applicable. *</p>	<p>S&A, IC, O</p>	<p>✓</p>	<p>✓</p>	<p>Manager/Bu</p>
<p>opportunities to use Village-owned property to leverage private development that contribute to revitalization of the CBD. *</p>	<p>ZS, S&A, O</p>	<p>✓</p>	<p>✓</p>	<p>Manager/Bu</p>

IMPLEMENTATION OF THE COMPREHENSIVE PLAN



Zoning and land use law – regulates private land use

Infrastructure planning

- Water/sewer infrastructure

Municipal facilities

- Roads
- Municipal Buildings/Parking
- Parks

Open space protection

- Community Preservation Plan/Fund

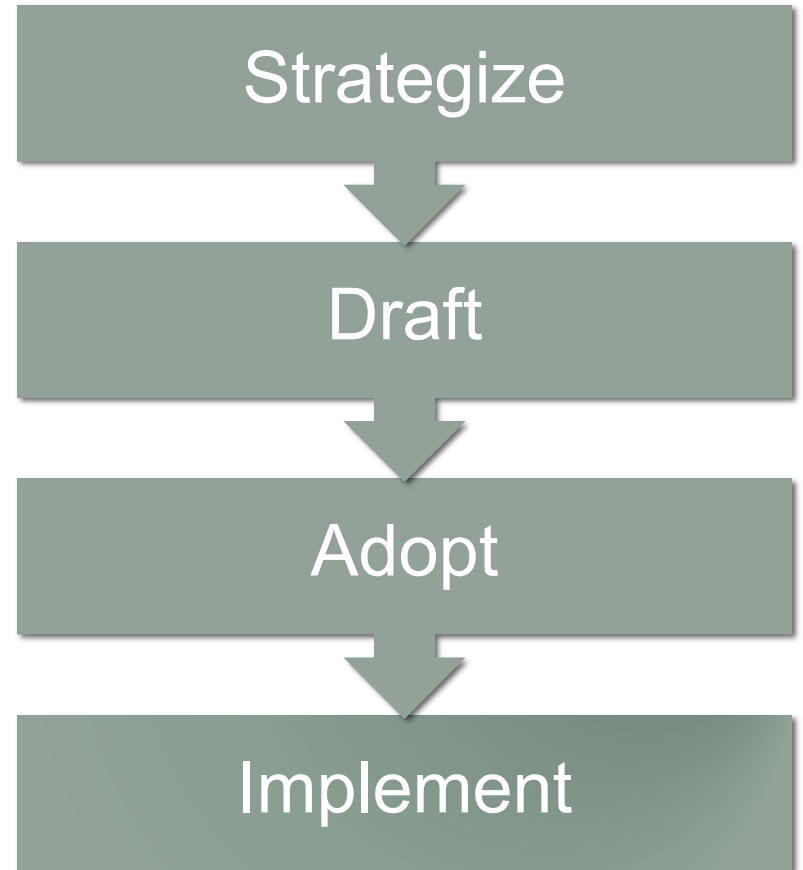
BEFORE ADOPTING NEW LAWS ASSESS EXISTING LAWS

- What regulations does your town have in place?
- Are the regulations being implemented?
- Is more education or staffing needed to implement?
- What is ineffective at the site scale?
 - Are regulations specific and definitive enough?
- What is needed townwide?



CREATING A LOCAL LAW TO IMPLEMENT THE PLAN

- Strategize and Draft
 - Ecological and Growth priorities
 - Political reality – sources of opposition
 - Capacity to enforce
 - Potential for legal challenge
- Adopt
 - Expect a process!



EXAMPLE ZONING CHAPTER

Purpose

Definitions

Establishment of Districts & Zoning Map

District Use, Lot and Bulk Regulations

Special Permit Regulations

Supplemental Regulations

Off-street Parking, Driveways and Loading Areas

Nonconforming Uses, Buildings and Structures

Site Plan and Special Permit Review & Approval

ZONING BASICS

- Uses

- Which uses in which areas?
- In each zoning district, define uses that are:
 - Permitted
 - Special use permit
 - Not permitted
- Are your uses up to date?

ZONING BASICS

- Dimensions/density
 - Lot size
 - Setbacks

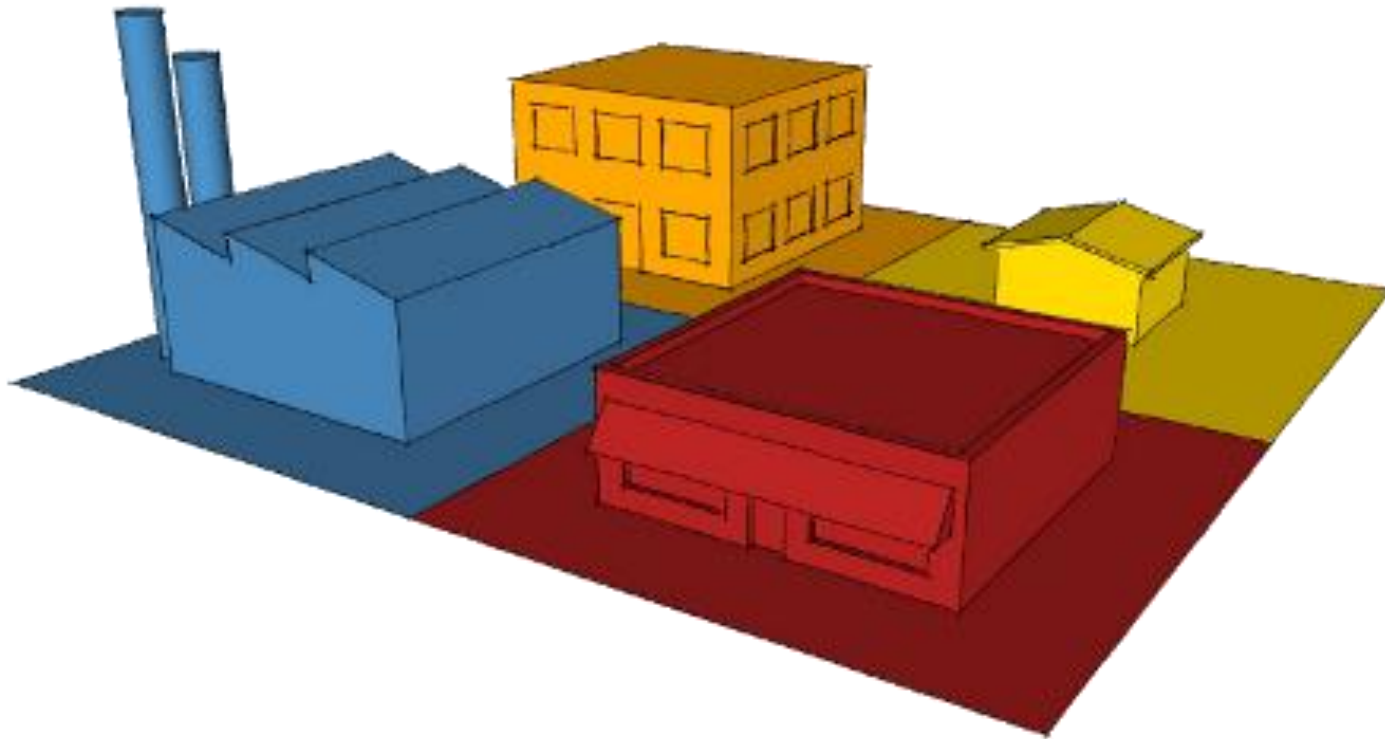


Conventional and clustered subdivision alternatives from Dutchess County's "Greenway Connections"

ZONING DISTRICTS

- Traditional/Euclidian
- Overlay zoning district
- Floating zone

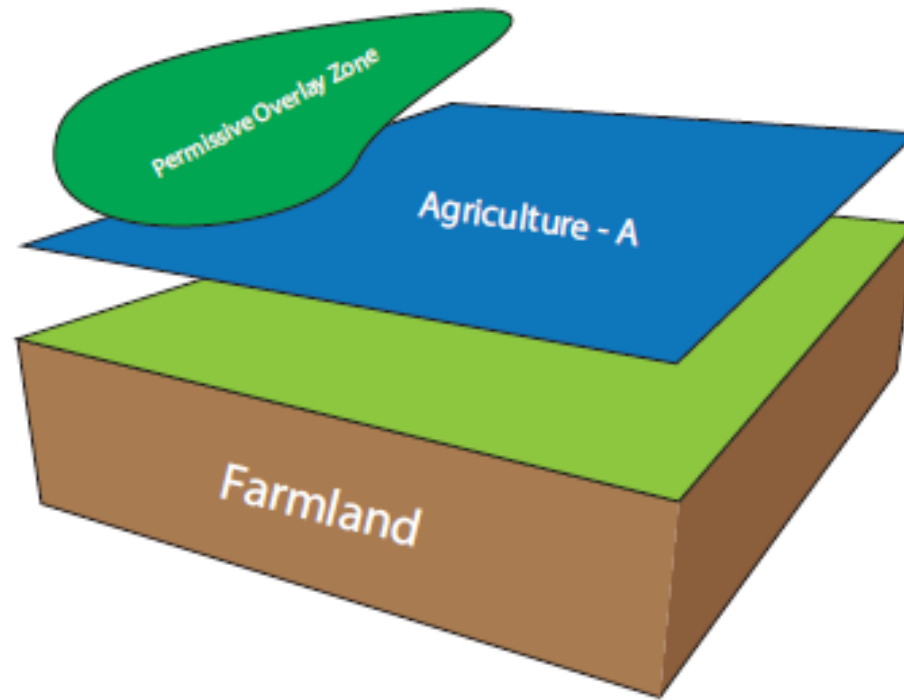
EUCLIDIAN ZONING



Source: <https://recode.la/updates/news/types-zoning-codes>

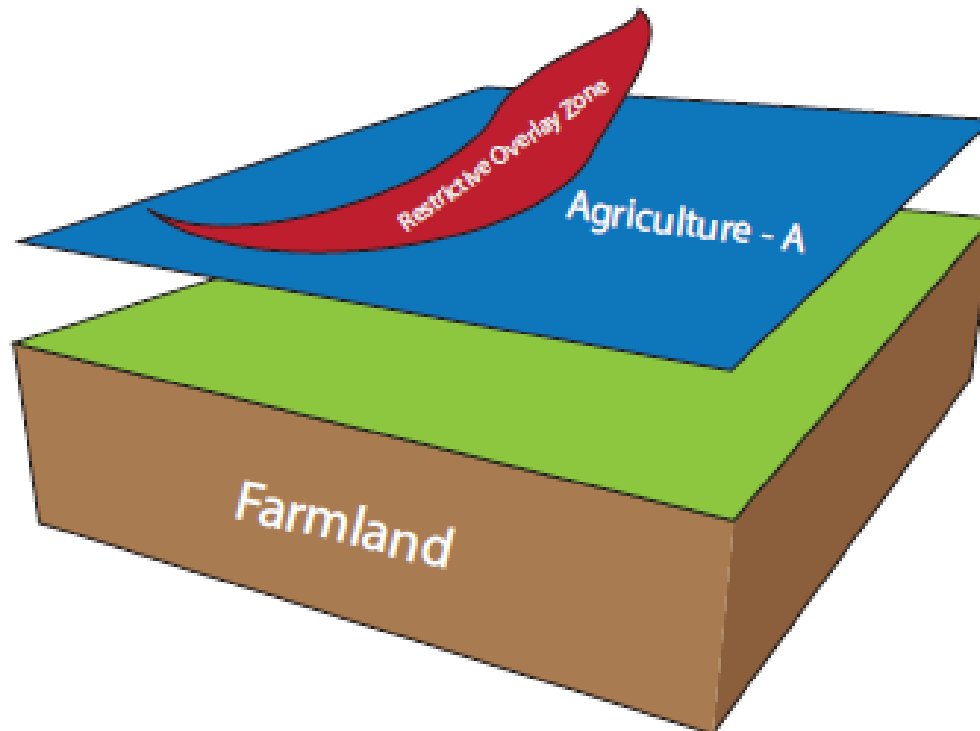
OVERLAY ZONES

Solar Agriculture Overlay Zone



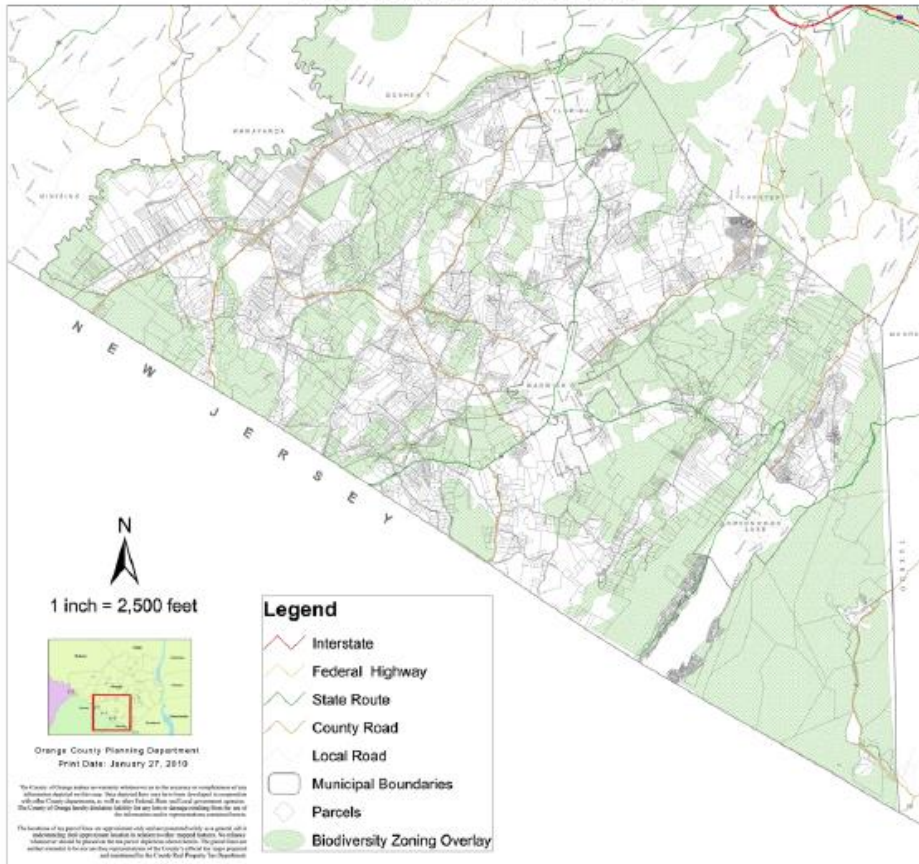
OVERLAY ZONE

Farmland Protection Overlay Zone



Overlay zoning

Town of Warwick, New York Biodiversity Zoning Overlay



Regulate development wherever a resource is found

Example:

Town of Warwick Biodiversity Conservation Overlay District

- established based on a regional habitat study
- an overlay map shows all protected areas, ranging from narrow stream corridors to broad swaths of land.




Zoning Map

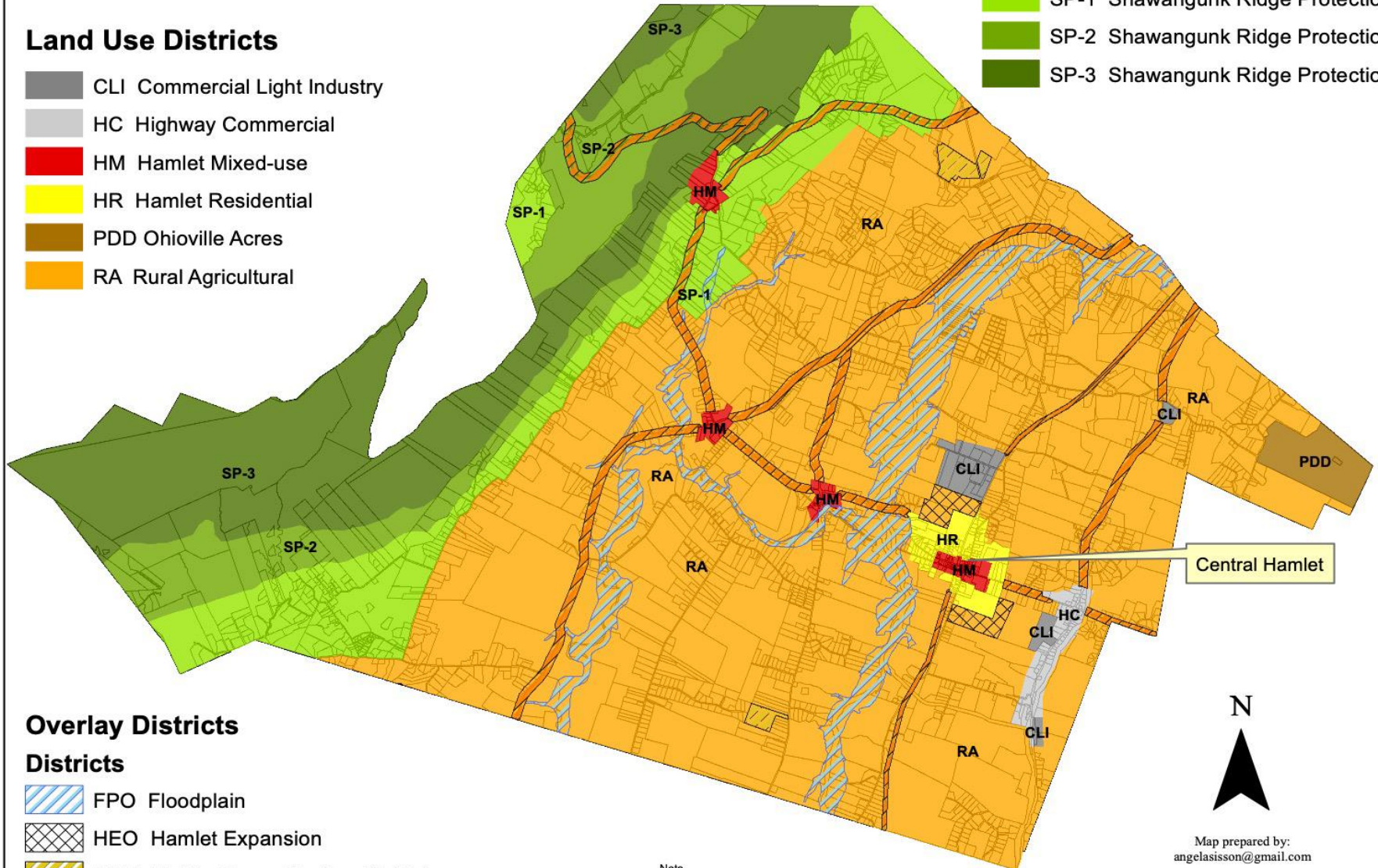
Town of Gardiner, New York
June, 2019

Land Use Districts

-  CLI Commercial Light Industry
-  HC Highway Commercial
-  HM Hamlet Mixed-use
-  HR Hamlet Residential
-  PDD Ohioville Acres
-  RA Rural Agricultural

SP Land Use Districts

-  SP-1 Shawangunk Ridge Protection
-  SP-2 Shawangunk Ridge Protection
-  SP-3 Shawangunk Ridge Protection



Overlay Districts

Districts

-  FPO Floodplain
-  HEO Hamlet Expansion
-  MHF Mobile Home Floating District
-  SPO Scenic Protection

Central Hamlet



Map prepared by:
angelaisson@gmail.com



Note
Ohioville Acres PDD adopted by the Town Board as
Local Law No. 5 of the Year 2007 on November 8, 2007.
This PDD was not superceded or modified by the Zoning
Amendments contained in Local Law No. 1 of 2008
adopted on March 4, 2008.

Creating Conservation Overlay Zoning

A Guide for Communities in the Hudson River Estuary Watershed



Cornell University

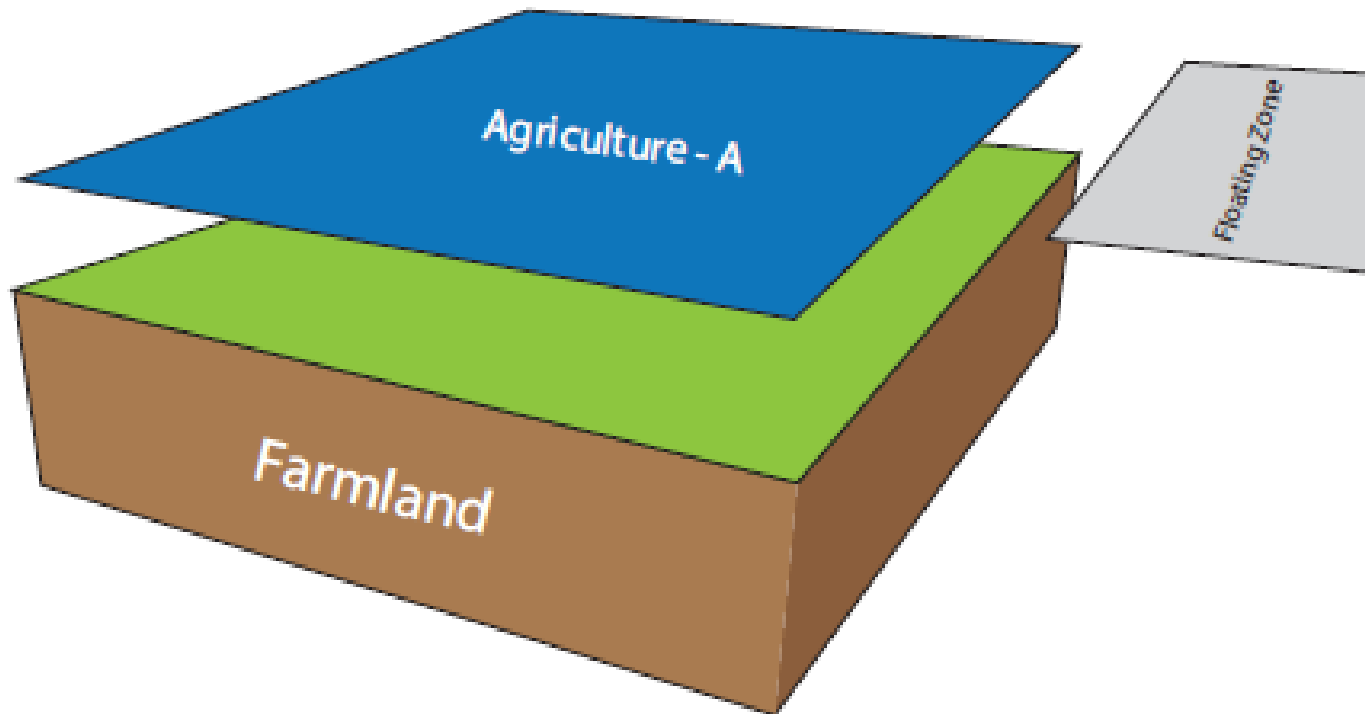


Department of
Environmental
Conservation

Hudson River
Estuary Program

FLOATING ZONE

Solar Agriculture Floating Zone



SUBDIVISION OF LAND

The Planning Board is authorized and empowered to approve plats for subdivisions

Subdivision: The division of any parcel of land into two or more lots, plots, sites or other divisions of land for immediate or future transfer or for building development.

Cluster Subdivision



*Dutchess
County's
"Greenway
Connections"*

<https://www.dutchessny.gov/Departments/Planning/Docs/Intro-Greenway.pdf>



Best Practices for Adopting and Implementing Open Space Inventories

Examples of local laws that implement the OSI

Town of Wawarsing, NY

Wawarsing's subdivision regulations authorize the Town's planning board to refer a **subdivision** applicant's sketch plat to Wawarsing's **conservation board** for its review and comment if the proposed activity would occur on **parcels designated on the Town's OSI map**. (Note the Town has not yet created a conservation board.) Town of Wawarsing, NY Code Section 95-13(F) is available [here](#).

How a CAC becomes a conservation board

Once adopted, the OSI becomes a municipality's official **open space index**, and its CAC may advance to conservation board status with a formal role in the municipality's environmental review process for any proposed actions affecting lands prioritized in the OSI. Under Article 12-F Section 239-y, the local legislature may, by resolution, redesignate the CAC as a conservation board after the OSI is "accepted and approved" as the municipality's open space index. Local legislatures can convert CACs to conservation boards via local law as well.



Best Practices for Adopting and Implementing Open Space Plans

Examples of local laws that implement the OSP

Town of Wawarsing, NY

After adopting its 2018 OSP, Wawarsing amended its zoning code to clarify that its purpose is in part, to “provide a system of open spaces and park and recreation facilities and review proposed applications for consistency with the Town of Wawarsing Open Space Plan, as may be amended from time to time.” The town also amended its cluster development regulations to require open space lands in proposed cluster developments to “comply” with the Town’s Open Space Plan and to require proposed primary conservation areas to “. . . be delineated comprising those primary conservation areas identified in the Town’s Open Space Plan . . . including floodplains, wetlands and their buffers, significant habitat and biodiversity conservation areas, slopes over 15% and other features defined and mapped in the Open Space Plan . . .” Town of Wawarsing, NY Code Sections 112-2 and 112-27(J)(1)(a) are available [here](#).

CRITERIA AND STANDARDS

Comprehensive Plan.

Neighborhood.

Existing streets.

Vehicular access.

Pedestrian safety.

Parking and loading.

Sanitation.

Fire protection.

Utility services.

Outside storage.

Handicapped persons.

Ecological considerations.

- Stormwater.

- Critical areas.

- Erosion and sedimentation.

- Landscape.

- Relation of proposed structures to environment.

- Scenic, historic, archaeological and landmark sites.

- Noise.

- Advertising features.

- Lighting.



Best Practices for Adopting and Implementing Natural Resources Inventories

What to include in a local law that is implementing the NRI

To ensure implementation of the NRI, local laws can incorporate the NRI into local land-use regulations in a variety of ways, including by:

- Drafting a law's purpose section to aim for consistency with the NRI.
- Using the NRI to define “natural resources” in a law's definitions section.
- Utilizing the NRI to delineate borders of natural resources. For example, a law can use the NRI to set a watercourse boundary.
- Requiring applicants to provide a map showing certain NRI-identified resources in or near the proposed project's boundaries, as well as any priority resources the project will impact.
- Requiring local boards to **take the NRI into consideration during the approval process** for land-use decisions and during the environmental review process.
- Allowing local boards to approve only those projects that are protective of certain resources identified in the NRI.
- Requiring **conservation subdivision** applicants to conduct a conservation analysis of certain natural resources identified in the NRI.
- Incorporating the NRI into supplemental development regulations like overlay zones delineated according to certain NRI-identified resources, open space conservation regulations that require protection of priority resources, and density incentive provisions that **offer a density bonus in exchange for protection of priority resources.**
- Requiring the NRI to be reviewed and updated at minimum time intervals.

Examples of NRI resolutions with policy statements

Town and Village of New Paltz, NY

The New Paltz resolution officially adopted the town and village's 2021 NRI and in clear, specific detail, states the town and village's intention to incorporate the NRI into the planning board's project review and approval process and that all development applications should include information on a proposed project's impacts on natural features identified in the NRI. This resolution does not address public availability or regular updates of the NRI. The New Paltz 2021 NRI is available online [here](#), and the June 3, 2021 resolution is available [here](#).

- Whereas clause expresses town's intent to require "consideration of future development's impact on . . . natural resources."
- Be-it-resolved clauses state that:
 - The town and village boards "adopt the NRI, which . . . should be incorporated into the Planning Board's review process."
 - "In all land use decisions, the NRI should be considered by the Planning Board to ensure proposed land uses are compatible with existing natural resources by minimizing impacts and providing acceptable mitigation measures when certain impacts cannot be avoided."
 - "For all **subdivision, special permit uses, uses requiring site plan approval**, or other Town and Village of New Paltz development reviews that are subject to SEQR the applicant should **provide an analysis of and disclose any potential impacts on any natural resource** identified in the NRI. Each application should contain a Conservation Analysis, consisting of inventory maps, description of the land, and an analysis of any potential impacts to various site features identified in the NRI. The **Conservation Analysis** should be on a form provided by the Town and Village of New Paltz, consisting of at a minimum, a copy of the Natural Resources Inventory maps, description of the land, and any potential impacts to site features identified in the Natural Resources Inventory. No application should be acted upon without a fully completed conservation analysis."

Examples of local laws that implement the NRI

Town of Canandaigua, NY

In 2020, Canandaigua updated its 2011 NRI, which is referenced throughout its town code. The town's **site plan and subdivision laws** require project applicants to submit **sketch plans that identify** “environmentally sensitive features identified on the NRI” and require the “planning board . . . to determine whether “proposed . . . development is **designed and arranged to avoid impacts** to natural features identified” in the NRI. Subdivision proposals must be “designed to preserve and protect natural features as identified in the NRI,” and planning board findings regarding site plans must “address the **specific questions** contained in the NRI.” Additionally, preliminary subdivision plats and site plans must include a delineation of natural features described in the NRI. Conservation subdivision sketch plan and preliminary plat submissions must “include a **conservation analysis that identifies any ‘priority conservation assets’ identified in the Town’s NRI**, such as rare or vulnerable ecological communities, riparian buffers, steep slopes, agricultural land, and scenic landscapes, among others.” Part of the NRI serves as the town’s open space index, and Canandaigua’s conservation board participates in application review, using a Project Review Guide to implement these requirements. Town of Canandaigua, NY Code Section 1-17, Chapter 174, and Chapter 220 are available [here](#), and the town’s 2020 NRI [here](#).

EXISTING LAWS:

SEQRA and SWPPPs are implemented locally

- Are your community's boards implementing these tools effectively?
- Is education or staffing needed?



SEQRA

- Applies to all actions government undertakes, approves or funds
- Consideration of broad range of environmental impacts
- No firm restrictions
 - “may include the potential for at least one significant adverse environmental impact” (declaration of significance)
 - “adverse environmental impacts will be avoided or minimized to the maximum extent practicable” (conclusion)

SEQRA

- “a substantial adverse change in existing . . . ground or surface water quality or quantity . . .”
- “a substantial increase in potential for erosion, flooding, leaching or drainage problems”

6 NYCRR 617.7(c)



NEW YORK STATE
Department of
Environmental
Conservation

The SEQR Handbook FOURTH EDITION, 2020

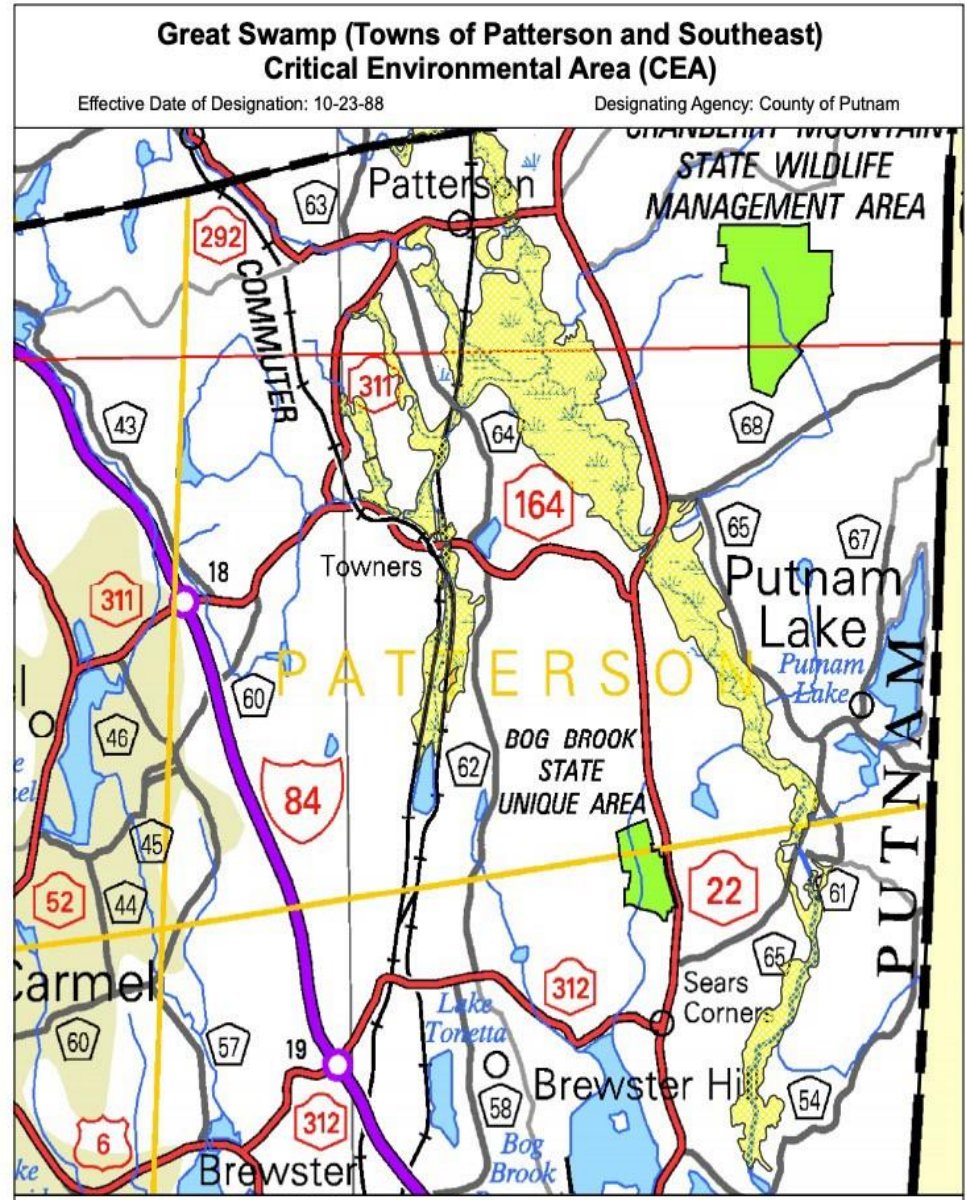
DIVISION OF ENVIRONMENTAL PERMITS

Andrew M. Cuomo, Governor | Basil Seggos, Commissioner



SEQRA - Critical Environmental Areas

Establish CEAs to
ensure thorough
SEQRA review in
sensitive areas



Best Practices for Adopting Conservation Inventories and Plans

A Guide for Communities in the Hudson River Estuary Watershed



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Stormwater Runoff

- Stormwater Pollution Prevention Plan
 - Erosion & Sediment Control (during construction)
 - Post-construction BMPs (permanent)

Reviewing Stormwater Management in Site Design: A Guide for Planning Board Members



Version 2 - 2015

Lower Hudson Coalition of
Conservation Districts

- NYS DEC Stormwater Design Manual
 - Chapter 3 – Site Planning
 - First, protect natural resources & hydrology of site
 - Design to minimize impervious surfaces
 - Use green infrastructure practices to reduce runoff
 - Last resort – treat collected runoff
 - Chapter 5 – Green Infrastructure Practices





Services

News

Government

Local

Department of State

Licensing & Business

Local Government

Community Infrastructure

New Americans

COVID-19 UPDATES

[What you need to know](#)

Model Local Laws to Increase Resilience

<https://dos.ny.gov/model-local-laws-increase-resilience>

Model Local Laws: Local Implementation of CRRA

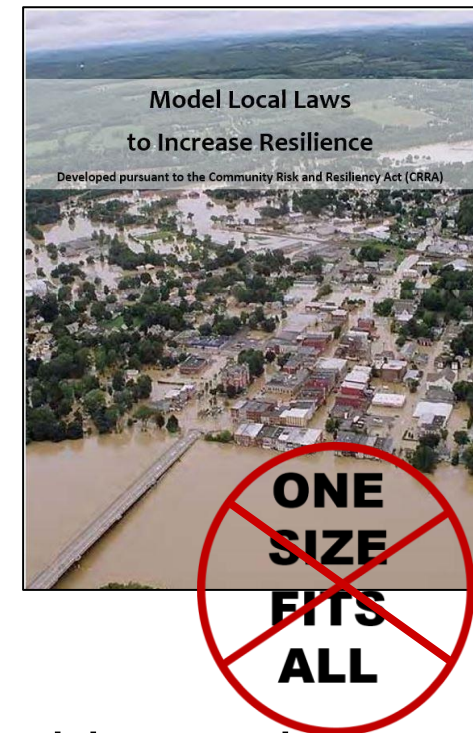
Importance of local government

Models created from:

- Existing model laws
- Good examples of current local laws
- Combining sections from various laws using professional expertise

Adapt for local use

- Plug in sections to update existing laws *OR*
- Use entire model law for topics not currently addressed



CHAPTERS



<https://dos.ny.gov/model-local-laws-increase-resilience>



Each Model Local Law: Content

Title, background and purpose

- Information about the subject, benefits, some references
- Comparison with other approaches in the MLLs document

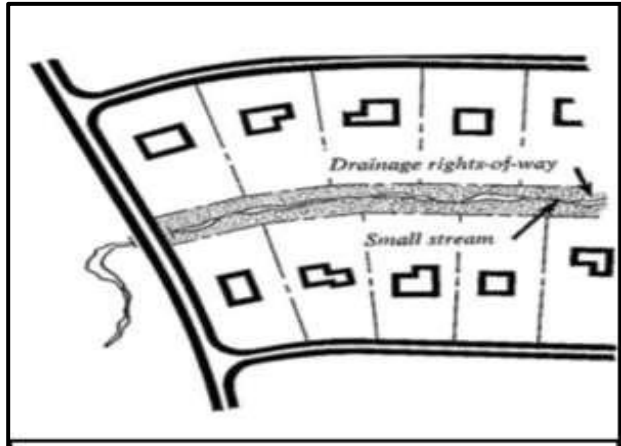
Usage

- Which existing local law(s) and section(s) in those laws to amend; or adopt a new law

Adapted from the following source

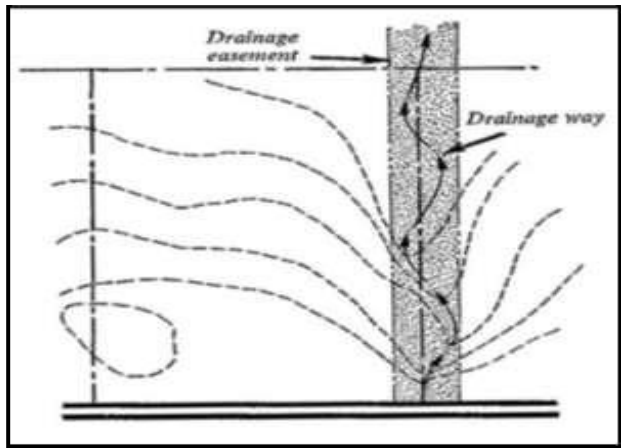
- Municipality name; sometimes other states or programs

Local law language



↑ Drainageway easement – back of lots

↓ Drainageway easement – side of lots



1. Basic Land Use Tools: Subdivision and Open Space Development	MLLs SECTION
Subdivision in flood-prone areas	1.5.1
Long-term risk - Safe building envelopes	1.5.2
Drainage improvements	1.5.3
Design Standards to Protect Natural Features	1.5.4.1
Subdivision Woodlands	1.5.4.2

Example Cluster Development
Randall Arendt



1. Basic Land Use Tools: Subdivision and Open Space Development	MLLs SECTION
Lot yield calculations	1.5.5
Cluster, open space & conservation development	1.5.6
Disclose environmental constraints	1.5.7



Thompson Pond Preserve, Pine Plains, NY

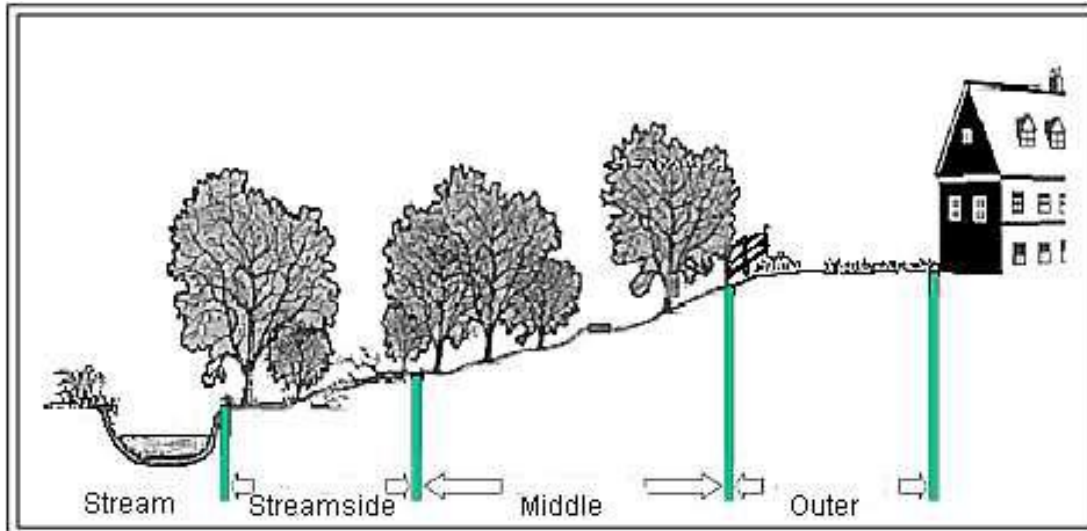
2. Wetland Protection Measures	MLLs SECTION
Simple Wetland Setbacks	2.1.1
Wetlands Buffer	2.1.2
Wetland Conservation Overlay District	2.1.3
Local Freshwater Wetland Law	2.1.4



Wappinger Creek, Dutchess County

2. Watercourse Protection Measures	MLLs SECTION
Simple Watercourse Setbacks (example next slide)	2.2.1
Stream-related zoning standards	2.2.2
Watercourse Overlay District	2.2.3
Local Watercourse Law	2.2.4

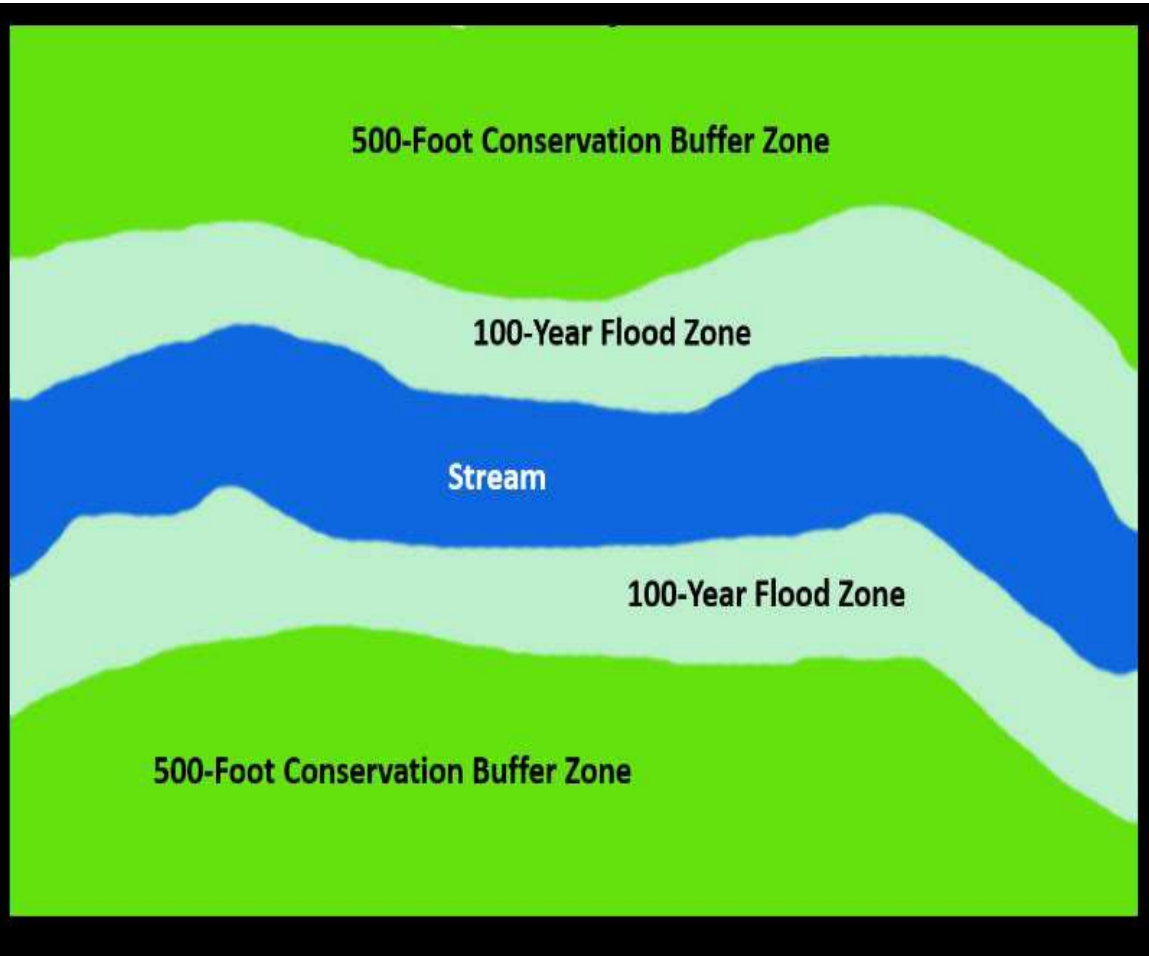
2.2.1 Watercourse Setbacks & Buffers



Three-zone stream buffer system (Source: Adapted from Schueler, 1995)

Maintain stream protection buffer to decrease erosion, reduce flood risk, improve water quality, provide wildlife habitat

- Prevent building too close to streams, rivers and waterbodies
- Require larger setbacks in environmentally sensitive areas or areas of higher risk



<p>4. Management of Floodplain Development</p>	<p>MLLs SECTION</p>
<p>Limit development in floodplain: overlay district</p>	<p>4.1</p>
<p>Floodplain and wetland resource conservation overlay district</p>	<p>4.2</p>

Village of Washingtonville,
Hurricane Irene

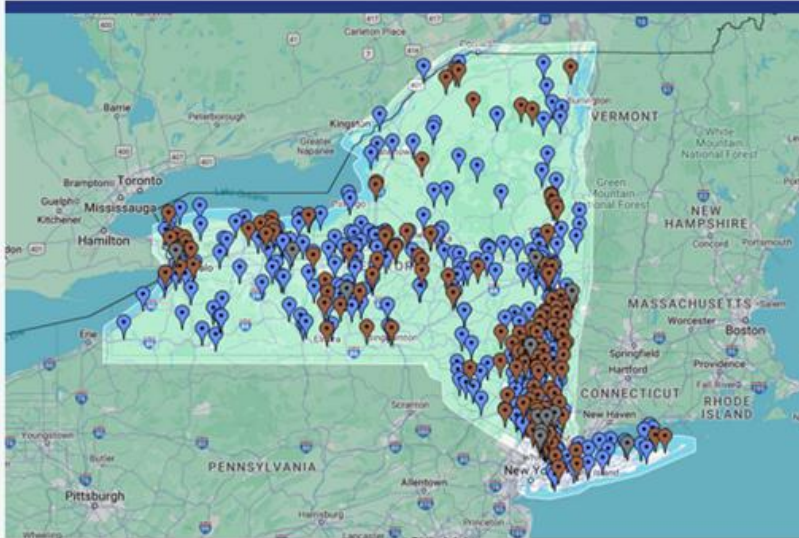


4. Management of Floodplain Development	MLLs SECTION
Establish design flood elevation to reflect flood levels different than shown on FIRMS	4.3.2 (next slide)
Repetitive damage – Flood Damage Prevention Law Amendment	4.3.4
Prohibit new critical facilities in flood zones	4.3.6



Canandaigua Lake

5. Green Infrastructure and Stormwater Management	MLLs SECTION
Steep slope and erosion control performance standards	5.1.2
Steep slope protection overlay district	5.1.3
Erosion and sediment control & stream corridor management provisions	5.4.3



State Support for Local Climate Action

Climate Smart Communities (CSC) is a New York State program that helps local governments take action to reduce greenhouse gas emissions and adapt to a changing climate. The program offers grants, leadership recognition, and free technical assistance.

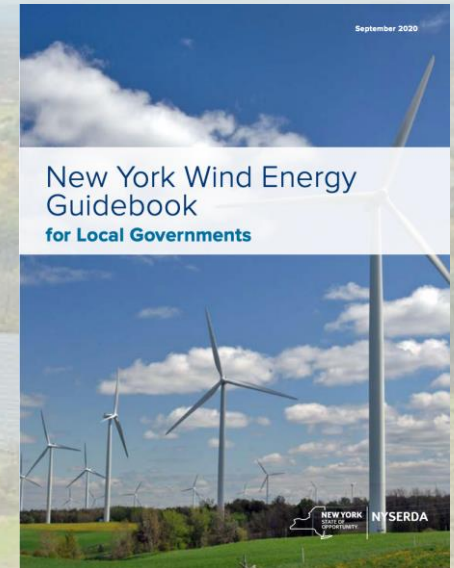
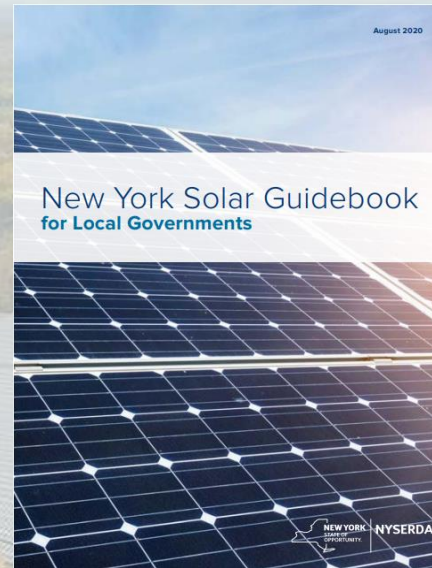
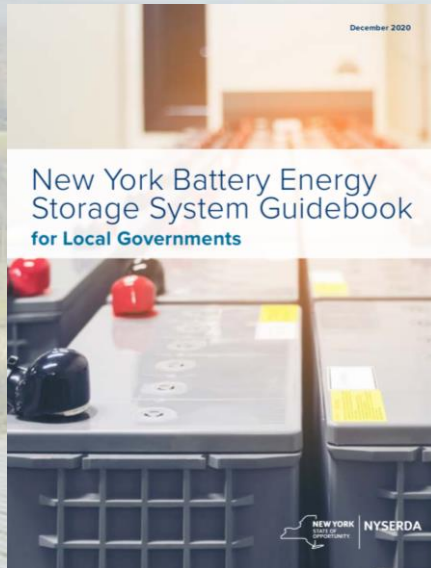
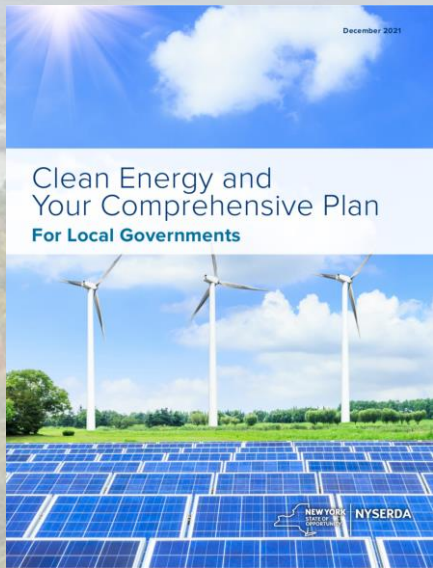
Registered communities have made a commitment to act by passing the CSC pledge. **Certified** communities are the foremost leaders in the state; they have gone beyond the CSC pledge by completing and documenting a suite of actions that mitigate and adapt to climate change at the local level.

[> LEARN MORE](#)

Eleanor Peck, Deputy Director
epeck@hudsonvalleyrc.org

CEC & CSC technical assistance to Orange, Rockland, and Sullivan Counties as well as larger cities and County governments across the Region.

Siting Team Resources



Clean Energy Siting Team:
www.nyserra.ny.gov/Siting
cleanenergyhelp@nyserra.ny.gov



AGENDA

6:25 - 6:40 BREAK

6:40 - 7:10 The NYSDEC Freshwater Wetlands

Rhea Mallett, Esq., Partner, McCarthy Fingar LLP; Consultant, Land Use Law Center



NYS FRESHWATER WETLANDS

STATE OF NEW YORK
 SUPREME COURT

COUNTY OF ALBANY

CONSOLIDATED DECISION, ORDER & JUDGMENT

CHAUTAUQUA LAKE PROPERTY OWNERS
 ASSOCIATION, INC., *et al.*,

Petitioners-Plaintiffs,

Case 1
 Index No. 903982-25

-against-

THE STATE OF NEW YORK and the NEW
 YORK STATE DEPARTMENT OF
 ENVIRONMENTAL CONSERVATION,

Respondents-Defendants.

BUSINESS COUNCIL OF NEW
 YORK STATE INC., *et al.*,

Petitioners-Plaintiffs,

Case 2
 Index No. 904423-25

-against-

NEW YORK STATE DEPARTMENT OF
 ENVIRONMENTAL CONSERVATION and
 AMANDA LEFTON, as Acting Commissioner
 of the New York State Department of Environmental
 Conservation,

Respondents-Defendants.

VILLAGE OF KIRYAS JOEL and
 TOWN OF PALM TREE,

Petitioners-Plaintiffs,

Case 3
 Index No. 904424-25

-against-

NEW YORK STATE DEPARTMENT OF
 ENVIRONMENTAL CONSERVATION and
 AMANDA LEFTON, Acting Commissioner of the
 New York State Department of Environmental
 Conservation,

Respondents-Defendants.

CHAUTAUQUA LAKE PARTNERSHIP, INC.,
et al.,

Petitioners-Plaintiffs,

Case 4
 Index No. 905313-25

-against-

NEW YORK STATE DEPARTMENT OF
 ENVIRONMENTAL CONSERVATION, *et al.*,

Respondents-Defendants.

April 8, 2026

Supreme Court,
 Albany County



~~6 NYCRR Part 664~~

FRESHWATER WETLANDS ACT

"It is declared to be the public policy of the state to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands, and to regulate use and development of such wetlands to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial economic, social and agricultural development of the state."

Environmental Conservation Law, Art. 24
§24-0103. Declaration of policy.

NYS DEC REGULATED WETLANDS (1975)

- 12.4 acres or greater
- "unusual local importance"
- 100-foot adjacent buffer

NYS DEC identified, classified, and mapped wetlands

NYS DEC REGULATED WETLANDS (2022 AMENDMENTS)

- Eliminated Mapping Requirement for DEC Regulation.
- Established Rebuttable Presumption of Regulation of all areas with wetlands characteristics.
- Reduced 12.4 acres minimum to 7.4 acres (eff. 1/1/28)
- Expanded Definition of "Unusual Importance" with 11 specific criteria for any size wetland.

CRITERIA FOR WETLANDS OF UNUSUAL IMPORTANCE

1. Watershed with significant flooding
2. Urban areas
3. Rare plants
4. Habitat for essential behavior of protected species
5. Class I wetlands
6. Previously designated as a wetland of Unusual Local Importance (ULI)
7. Vernal pools productive for amphibian breeding
8. Wetlands in floodways (FEMA)
9. Previously mapped wetlands
10. Regional or local significance (CEA)
11. Significant for protecting state's water quality

ANNULLED 2025 REGULATIONS

1. Procedure for jurisdictional determinations under Part 664 – including applications and forms for parcel or project JDs.
2. Biological criteria for unusual importance determinations (beyond statutory list).
3. Class wetlands classification system.
4. Consultation and appeal timeline for positive JDs.
5. Grandfathering protections for pre-2025 approvals.

RESULTS

Positive Jurisdictional Determinations

While regulations under which they were issued are now void, DEC maintains statutory authority to determine that a parcel meets the definition of a freshwater wetland. ECL 24-0107.

Negative Jurisdictional Determinations

Written determination that a parcel does NOT include a jurisdictional wetland "shall be a complete defense to the enforcement of this article...for a period of five years from the date the department issues the negative answer." ECL 24-0703(5)

Grandfathered Parcels

Purely regulatory and protections now void.

Enforcement

Entirely statutory. ECL 71-2303. Penalty structure remains in full force.



AGENDA

7:10 - 8:30 Exceptions to Local Zoning

Rhea N. Mallett, Esq., Partner, McCarthy Fingar LLP; Consultant, Land Use Law Center

Leo Dorfman, Esq. Partner, Sokoloff Stern LLP

- Statutory Preemptions
- Common Law Exceptions for Educational and Religious Institutions
 - NYS
 - Federal RLUIPA

EXCEPTIONS TO LOCAL ZONING



NYS PREEMPTIONS

1. Mental Hygiene Law §41.34
 - Padavan Law; Group Home Placement
2. Agricultural Districts Law §305-a
 - Coordination of Local Planning and Land Use Decision-making
3. Social Services Law §374-c, §390(12)
 - Authority to Operate Group Homes; Group Day Care
4. Public Service Law Art. VIII, §§137-145
 - Siting of Renewable Energy and Electric Transmission
5. Environmental Conservation Law §27-1107
 - Siting Industrial Hazardous Waste Facilities; Powers of Municipalities
6. Cannabis Law §131
 - Local Opt-Out; Municipal Control and Preemption

**COMMON LAW
EXCEPTIONS TO LOCAL ZONING
FOR RELIGIOUS AND EDUCATIONAL
INSTITUTIONS**



Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof...

U.S. Const. Amend. 1.



The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state to all humankind; ... but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

NYS Const., Art. 1, Sec. 3



Schools and Religious Institutions

Then



- Walkable Schools & Religious Institutions
- In the Heart of the Neighborhood
- Integrated into the Community

Now



- Large School & Religious Institution Campuses
- Traffic Jams & Packed Parking Lots
- Impacting Residential Areas

1950s

North Shore Unitarian Soc. v. Village of Plandome, 200 Misc. 524 (Sup. 1951)

... the court does not believe that any municipality in the State of New York may, by enactment of a zoning ordinance, wholly exclude from within its borders churches and places of worship. In the court's opinion, ***such an ordinance would not substantially promote the health, safety, moral or general welfare of the community.***

1950s

In the Matter of Community Synagogue v. Bates, 1 N.Y.2d 445 (1956)

We think we should accept the fact that we are the successors of "We, the people" of the Preamble to the United States Constitution and that a court may not permit a municipal ordinance to be so construed that it would appear in any manner to interfere with the "free exercise and enjoyment of religious profession and worship."

In the matter of Diocese of Rochester v. Planning Bd of Town of Brighton, 1 N.Y.2d 508 (1956)

We do not believe it is a proper function of government to interfere in the name of the public to exclude churches from residential districts for the purpose of securing to adjacent landowners the benefits of exclusive residential restriction.

1960s

Matter of Westchester Reform Temple v. Brown, 22 N.Y.2d 488 (1968)

We have not said that considerations of the surrounding area and potential traffic hazards are unrelated to the public health, safety, or welfare when religious structures are involved. We have simply said that they are outweighed by the constitutional prohibition against the abridgement of the free exercise of religion and by the public benefit and welfare which is itself an attribute of religious worship in a community.

1970s

American Friends of Society of St. Pius, Inc v. Schwab, 68 A.D.2d 646 (1979)

Municipality must attempt to fashion "such reasonable conditions as will permit establishment of petitioner's church while mitigating the detrimental or adverse effects of such use upon the community."

Jewish Recontructionist Synagogue v. Incorporated Village of Roslyn Harbor, 38 N.Y.2d 283 (1975)

An ordinance that authorizes the denial of a special use permit for a religious institution in a residential district, "without setting reasonable requirements for adaptations which would mitigate their effects" is unconstitutional.

Jewish Recontructionist Synagogue v. Incorporated Village of Roslyn Harbor, 38 N.Y.2d 283 (1975)

Chief Judge Breitel, concurs:

It is the all but conclusive presumption that considerations of public health, safety and welfare are always outweighed, as some of the precedents suggest, by the policy favoring religious structures that I find objectionable.

Judge Jones, dissents:

The time has come when our court should forthrightly face the legal, economic and social implications of continued slavish adherence to the outmoded doctrine that churches and synagogues are wholly immune from even reasonable zoning regulation.

Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986)

*The result has been to render municipalities powerless in the face of a religious or educational institution's proposed expansion, no matter how offensive, overpowering or unsafe to a residential neighborhood the use might be. **Such an interpretation, however, is mandated neither by case law of our State nor common sense.***

• • •

... we did not intend to establish a rigid rule that educational and religious uses may never properly be found to conflict with these factors to such an extent as to endanger the public's health, safety, welfare or morals.

Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986)

*Although the special treatment afforded schools and churches stems from their presumed beneficial effect on the community, there are many instances in which a particular educational or religious use may actually detract from the public's health, safety, welfare or morals. **In those instances, the institution may be properly denied.***

Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986)

Thus, educational and religious uses which would unarguably be contrary to the public's health, safety or welfare need not be permitted at all.

Post *Cornell Univ. v. Bagnardi*

Pine Knolls V. Alliance Church v. Zoning Bd. Of Appeals of Town of Moreau,
4 N.Y.3d (2005)

ZBA's denied a second access road and instead increased the driveway capacity which served as mitigation that did not "by their cost, magnitude or volume, operate indirectly to exclude" the religious use of the parcel.

Assembly of God Church of Bay Shore, New York, Inc. v. Islip Town Bd. 644
N.Y.S.2d 750 (2d Dept. 1996)

Expansion of religious institution and relaxation of restrictions and covenants denied as further expansion would change the character of the neighborhood and pose problems re: parking, traffic congestion, decrease property valuation, and air pollution.



Lakeshore Assembly of God Church v. Vil. Board of the Vil. of Westfield, 124 A.D.2d 972 (4th Dept. 1986)

"It is wholly appropriate to impose limitations on church property and its accessory uses when reasonably related to the general welfare of the community, including the community's interest in preserving its appearance."

Matter of Ravena-Coeymans-Selkirk Central School District v. Town of Bethlehem, 156 A.D.3d 179 (3rd Dept. 2017)

Public school district not immune from local zoning regulations; court relied on Cornell Univ. finding that municipality had to power to curtail accessory use that is a safety concern to surrounding area.

SOKOLOFF STERN LLP

RLUIPA in New York

*Defending Municipal Land Use Decisions
and Drafting Codes That Hold Up*

One-hour presentation · Substance + Q&A

Overview

- I*** Introduction & stakes

- II*** Statutory framework

- III*** Substantial burden — the workhorse claim

- IV*** Equal terms, nondiscrimination, exclusion

- V*** Practical drafting — zoning codes that hold up

- VI*** Process hygiene for boards

- VII*** Remedies, fees, and outcomes

Why This Is Worth Your Time

\$5M+

Fee award in *Fortress Bible Church v. Feiner* after Town lost RLUIPA trial

§ 1988

Prevailing-party fees are uncapped and often exceed the project itself

DOJ

Civil Rights Division actively sues NY villages — Airmont, Pomona, Ossining

OUR GOAL FOR THE HOUR

Spot the risk the moment a religious-use application arrives · ***draft the code*** to reduce facial exposure
· ***run the hearing*** to produce a record that survives challenge.

Statutory Framework: 42 U.S.C. § 2000cc

§ 2000cc(a)(1)

Substantial Burden

No land use regulation imposing a substantial burden on religious exercise unless in furtherance of a compelling interest by the least restrictive means.

§ 2000cc(b)(2)

Nondiscrimination

No regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

§ 2000cc(b)(1)

Equal Terms

No regulation that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

§ 2000cc(b)(3)

Exclusion & Unreasonable Limits

No regulation that totally excludes religious assemblies from a jurisdiction, or unreasonably limits them within a jurisdiction.

Remedies: injunctive & declaratory relief, damages, attorney's fees (42 U.S.C. § 1988). DOJ suits: § 2000cc-2(f).

Two Definitions That Decide Most Cases

§ 2000cc-5(7)

“Religious exercise” is broad

Includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

Expressly extends to *“the use, building, or conversion of real property for the purpose of religious exercise.”*

Practical result: courts rarely entertain “that’s not really religious” arguments. Don’t build a defense around them.

§ 2000cc(a)(2)(C)

The “individualized assessment” hook

Substantial-burden claims require a jurisdictional trigger.

Any time the municipality makes a case-by-case judgment — special permit, variance, site plan, subdivision, SEQRA determination — (a)(2)(C) is satisfied.

Virtually every NY land-use approval is an individualized assessment. Plan accordingly.

Substantial Burden — Second Circuit Test

§ 2000cc(a)(1)

“No land use regulation that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden... is in furtherance of a compelling governmental interest, and is the least restrictive means of furthering that compelling interest.”

Westchester Day School v. Village of Mamaroneck, 504 F.3d 338 (2d Cir. 2007)

A land-use regulation imposes a substantial burden when it —

- 1 Directly coerces** — the religious institution to change its behavior.
- 2 Results from arbitrary, capricious, or unlawful action** — by the municipality.
- 3 Leaves the institution with no ready alternative** — such that religious exercise is effectively foreclosed.

“Substantial” is measured against the religious mission. Inconvenience or cost alone is not enough.

Case Study: Westchester Day School

Westchester Day School v. Village of Mamaroneck · 504 F.3d 338 (2d Cir. 2007)

FACTS

Modern Orthodox day school sought a special permit to modernize its existing campus.

ZBA imposed prolonged review and denied the expansion on traffic and neighborhood-impact grounds.

HOLDING

Denial was a substantial burden — no feasible alternative on owned property.

Village failed to show compelling interest pursued by least restrictive means.

Court affirmed injunction directing issuance of the permit.

TAKEAWAY

If the applicant has no realistic alternative parcel, denial is very likely a substantial burden.

Speculative “you could buy elsewhere” is not a defense.

Pretext and inconsistent standards surface at trial.

Case Study: Fortress Bible Church

Fortress Bible Church v. Feiner · 694 F.3d 208 (2d Cir. 2012)

WHAT THE TOWN DID WRONG

Seven-year SEQRA review with escalating study demands.

Traffic mitigation conditions not imposed on comparable secular projects.

District court found bad faith by the Town Board — moving goalposts to defeat the use.

SEQRA deployed as a denial tool rather than an environmental review.

THE CONSEQUENCES

\$5,000,000+

Attorney's fees and costs ultimately assessed against the Town of Greenburgh.

Second Circuit affirmed substantial burden, directed issuance of approvals, and upheld bad-faith finding.

Lesson for boards: *Run SEQRA proportionately. Document parity with secular projects. Never let review drift.*

Case Study: Historic Districts & Design Review

Chabad Lubavitch of Litchfield Cty., Inc. v. Litchfield Hist. Dist. Comm'n · 768 F.3d 183 (2d Cir. 2014)

WHAT THE COMMISSION DID

Denied expansion needed for religious school, residence, mikvah, and community functions.

Cited historic preservation and aesthetic cohesion.

Proposed alternatives not feasible for the congregation's actual use.

WHAT THE SECOND CIRCUIT HELD

Historic preservation is a legitimate interest — but not a trump card.

A commission must genuinely consider less-restrictive alternatives.

Commissions are bound by the same RLUIPA framework as ZBAs and Planning Boards.

Timing, Amendments, and Accessory Uses

CASE SPOTLIGHT

Congregation Rabbinical College of Tartikov v. Village of Pomona

945 F.3d 83 (2d Cir. 2019); 915 F.3d 839 (2d Cir. 2019)

Village enacted amendments — steep-slope, wetlands, dormitory rules, dimensional standards — after the seminary application landed. Second Circuit permitted facial RLUIPA claims to proceed notwithstanding ripeness concerns because the record showed the amendments were responsive to the application.

Airmont / Ramapo belt

Long-running DOJ and private litigation over Orthodox Jewish land use; home worship, yeshivas, and dorm uses are chronic issues.

Accessory uses

Schools, dorms, mikvahs, cemeteries, soup kitchens, ritual slaughter. Treat them the same way you'd treat analogous secular operations.

Mid-application amendments

Moratoriums and dimensional tweaks while a religious application pends are the single biggest litigation magnet.

What is “Substantial?”

LIKELY SUBSTANTIAL

- Outright denial of the only feasible expansion on an owned parcel.
- Conditions so costly the use cannot be built.
- Denial followed by a newly enacted amendment aimed at the applicant.
- SEQRA study demands disproportionate to secular comparators.
- Requirement to purchase a different (unavailable) parcel.

LIKELY NOT SUBSTANTIAL (ALONE)

- Neutral aesthetic conditions of ordinary scope.
 - Parking and traffic requirements tied to objective standards and consistent with secular permits.
 - Short delays for legitimate technical review.
 - Reasonable buffer and setback conditions applied evenly.
 - Cost or inconvenience without foreclosing the use.
-

Equal Terms — § 2000cc(b)(1)

Strict liability — no compelling-interest defense. A religious assembly or institution cannot be treated on less than equal terms with a nonreligious assembly or institution that is similarly situated under the regulation's criteria.

Third Church of Christ, Scientist v. City of New York

626 F.3d 667 (2d Cir. 2010)

City cited a Manhattan church for operating a catering facility — while issuing no-action letters to comparable secular caterers.

Second Circuit affirmed Equal Terms liability and the injunction permitting continued use.

Takeaway: selective enforcement against a religious institution — even under a content-neutral ordinance — is an Equal Terms problem.

THE COMPARATOR AUDIT

Read your use tables as a plaintiff would.

Are places of worship treated worse than:

- Fraternal lodges / civic clubs
- Catering halls / banquet facilities
- Private schools / libraries
- Theaters, meeting halls, membership clubs

*If yes in any zone — **fix it.***

Nondiscrimination & Exclusion / Unreasonable Limits

§ 2000cc(b)(2)

Nondiscrimination

Requires intentional discrimination — religion vs. religion, or religious vs. nonreligious.

Arlington Heights-style evidence: departures from ordinary procedure, selective enforcement, coded public and board comments, timing.

Board members should not adopt or repeat bias-coded opposition on the record.

§ 2000cc(b)(3)(A)

Total Exclusion

Cannot ban religious assembly jurisdiction-wide.

Rare in NY, but check: is religious use listed anywhere in your use table?

§ 2000cc(b)(3)(B)

Unreasonable Limits

The realistic risk for NY villages and towns.

Acreage minimums, dimensional standards, or permit structures that together render religious assembly impractical anywhere.

Run the inventory: how many actually developable parcels accommodate a realistic congregation?

Drafting · Use Tables

Most Equal Terms violations live in a single row/column cell.

Before — facial Equal Terms exposure

R I S K

Zone	Place of Worship	Fraternal Lodge	Catering Hall	Theater
R-2	Special permit — cap 5,000 sf	Special permit — cap 10,000 sf	Special permit — cap 10,000 sf	Special permit

After — content-neutral, impact-based

S A F E R

Zone	Place of Worship	Fraternal Lodge	Catering Hall	Theater
R-2	Special permit — cap by parking / traffic	Special permit — cap by parking / traffic	Special permit — cap by parking / traffic	Special permit

Practice pointer. *Prefer content-neutral categories (“places of assembly,” “membership organizations”) with objective, measurable criteria — occupancy, parking, PM peak trips, buffers, dB, lumens. Religious categories must be at least as permissive as every comparable secular category in every zone.*

Drafting · Special Use Permit Standards

DO

- Objective, measurable criteria: parking ratios, PM peak trips, dB, foot-candles, buffers in feet.
- Require written findings on each standard.
- Specify what modification would cure a deficient application.
- Tie mitigation conditions to measured impact — not to identity.
- Provide a shot clock: decision within X days of public hearing close.

DON'T

- Rely on vague standards alone (“harmonious,” “compatible with neighborhood character”).
 - Let the record substitute boilerplate for criterion-specific findings.
 - Grant exceptions to secular applicants you wouldn’t grant a religious one.
 - Use conditions to engineer a denial.
 - Adopt “moving target” study demands during review.
-

Drafting · Accessory Uses & Dimensional Standards

Accessory and ancillary uses

- Religious institutions routinely operate: schools, day care, clergy residences, dormitories, soup kitchens, cemeteries, mikvehs, ritual slaughter.
- Define these as accessory or list them explicitly.
- Parochial school and Montessori school with equal enrollment = same standards.
- Don't use accessory-use review to re-open core use questions.

Dimensional and bulk standards

- Lot size, setbacks, FAR, and parking should relate to measurable impact — not identity.
 - Watch “recalibrations” adopted during a pending religious application.
 - If code amendment is legitimate, document the planning rationale pre-dating the application.
 - Run an inventory: is enough appropriately-dimensioned land actually available for religious assembly?
-

SEQRA as a RLUIPA Risk

SEQRA is procedural, not a substantive veto. Every study demand should be proportionate, documented, and mirrored in how the municipality treats comparable secular projects.

THE TRAP — FORTRESS BIBLE PATTERN

- Escalating studies with no end condition.
- Conditions never imposed on secular applicants.
- Board drift between hearings — goalposts move.
- Result: bad-faith finding, substantial burden, § 1988 fee exposure.

THE DISCIPLINE

- Each study demand has a documented environmental basis.
- Parallel comparison: what did the Town require of the last school, office park, or hospital?
- Fixed shot clocks and completion criteria for each phase.
- Counsel at the table from scoping through findings.

Process Hygiene · Before and During the Hearing

Before the hearing

- Counsel issues a written RLUIPA intake memo.
- Audit recent comparable secular applications for parallel treatment.
- Brief board members informally on basic RLUIPA pitfalls.

At the hearing

- Focus on the adopted standards — not on community sentiment.
 - De-escalate bias-coded public comment; state on the record that the decision will rest on the written criteria.
 - If tone shifts, recess and consult counsel before proceeding.
-

Building a Record That Survives Challenge

- 1 Criterion-specific findings** “The application satisfies / fails to satisfy § X because...” No boilerplate.
 - 2 State the curable path** If denying, say what modifications would earn approval. Courts reward proportionality.
 - 3 Document less-restrictive alternatives** Each rejected alternative tied to a specific standard it failed.
 - 4 No moving goalposts** Disclose all anticipated review requirements up front. Log every new demand and its basis.
-

Remedies, Fees, and DOJ Exposure

INJUNCTION	Federal courts order issuance of approvals (Westchester Day School; Fortress Bible).
DAMAGES	§ 2000cc-2(a) authorizes damages; most land-use cases resolve on injunctive terms plus fees.
§ 1988 FEES	Prevailing-party fees can exceed the project cost itself. Uncapped.
DOJ SUITS	§ 2000cc-2(f) — Airmont, Pomona, Ossining. Consent decrees run for years.
CARRIER	NYMIR / PERMA / NYSIR each have specific notice and coverage nuances. Notify early.

Front-end discipline costs an hour. Back-end defense costs a line item.

Six Practical Things To Do

-
- 1** Read your use tables as a plaintiff's lawyer would. Find the row where religious use is worse off than an analog secular use.

 - 2** Issue a written intake memo and comparator audit for every religious-use application.

 - 3** Run SEQRA proportionately. Every study demand tied to a secular precedent.

 - 4** Make criterion-specific findings. If denying, state what fixes cure the defect.

 - 5** Watch board-member and adopted public comments for religiously-coded reasoning.

 - 6** Call counsel the moment a code amendment is proposed while a religious application is pending.
-

Thank you

Questions, hypotheticals, and war stories welcome.

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This presentation is for discussion purposes and does not constitute legal advice to any particular municipality or applicant.

STUMP THE TRAINERS (QUESTION & ANSWER SESSION)



THANK YOU!

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