NEW YORK STATE

Department of State
Local Government

ZONING BASICS FOR ENFORCEMENT OFFICIALS & BOARD MEMBERS

What is Zoning?

- **Any** local law or ordinance regulating land use, location, lot area and structural requirements
- Guides land use, site development and density to support **compatible** growth and infill development and protect community resources
- Targets development to areas supported by infrastructure and appropriate land conditions
- Establishes a process for project review and approval

78% of NYS Local Governments have Zoning

100% of Cities
86% of Villages
73% of Towns

What Can Zoning Do?

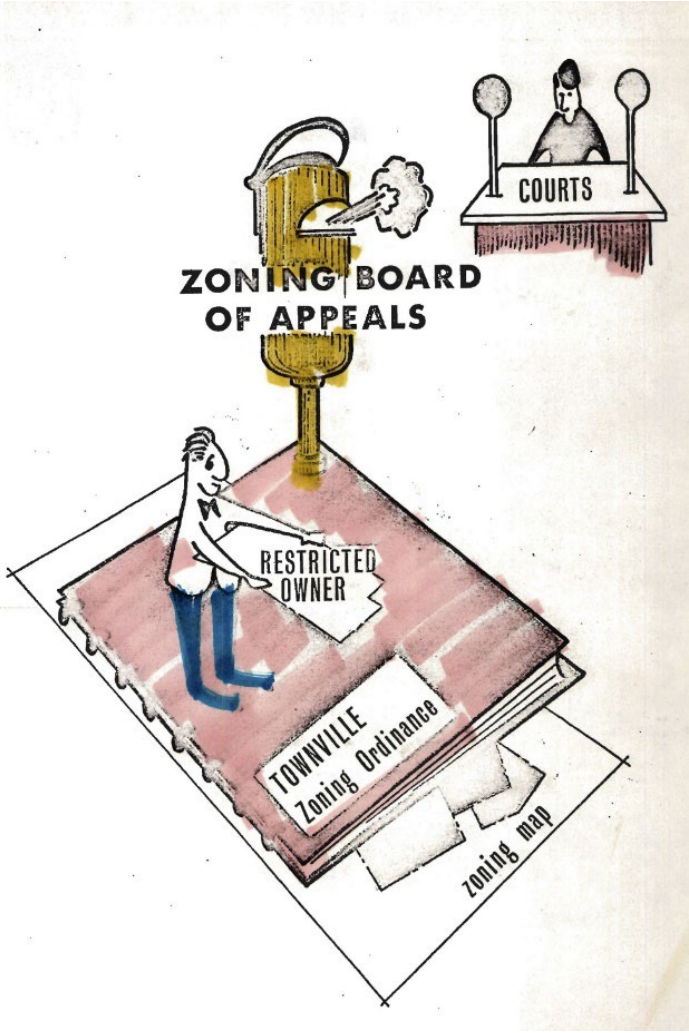
- Help maintain and enhance community character
- Support current and future compatible land uses; mixed-use neighborhoods, hamlets and villages
- Protect investment by creating some predictability
- Protect farmland, open space, sensitive environments and scenic resources



- Leverage walkability, community amenities
- Can be used to encourage priorities for economic development, housing and hot button issues

Zoning Requires a Safety Valve

- Municipalities with zoning must have a **Zoning Board of Appeals (ZBA)**
- ZBA is a “buffer” for aggrieved applicants between decisions of the zoning enforcement officer and State Supreme Court



Zoning Needs Administration and Enforcement

Administrative

- Acquire, prepare & distribute forms
- Receive applications
- Maintain records of administrative actions
- Make determinations regarding compliance
  - Zoning and other land use laws

Enforcement

- Receive complaints
- Conduct investigations & inspections
- Take necessary zoning enforcement actions

Zoning Determinations

- ZEO applies zoning as written; requirements cannot be waived
- Zoning laws may require a “zoning permit” issued by zoning administrator/ZEO indicating zoning compliance prior to receiving a building permit
- If “zoning permit” is not required, other common forms of communication or record of determination include:
  - Zoning determination/compliance forms
  - Letter to applicant

Interpretations and Appeals

- If the applicant or other party with standing disagrees with ZEO determination, they can seek **an interpretation** by the ZBA
- If the proposed project/activity does not comply with zoning, the applicant can seek relief **(a variance)** from the ZBA

Applicant has 60 days to appeal a ZEO's decision – **dated** documentation is important!

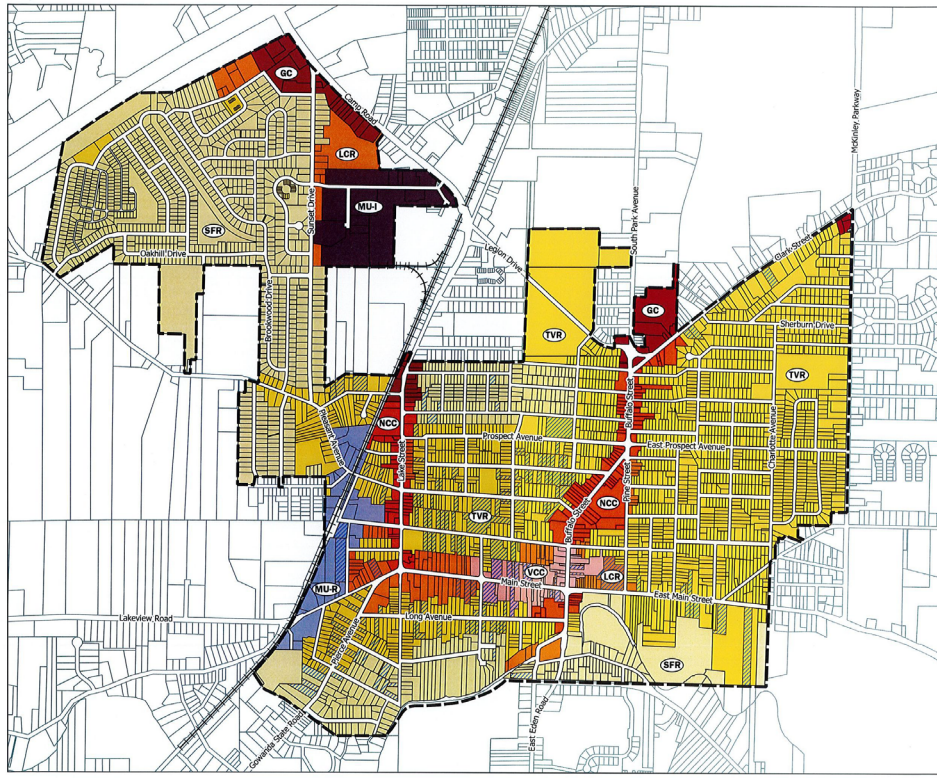
ZONING CONTENT

General text provisions all zoning should have

- Statutory source of power and intent
- Definitions
- Reference to official zoning map and establishment of districts
- Relationship to other regulations – the stricter regulation applies with some exceptions
  - NYS Uniform Fire Prevention & Building Code
  - Site plan or subdivision review when not combined into one land use law (reviews are easier to administer when all are combined in one law)
- Permitting process
- Administration, enforcement and appeals process
- Saving or severability clause

Zoning Districts and Maps

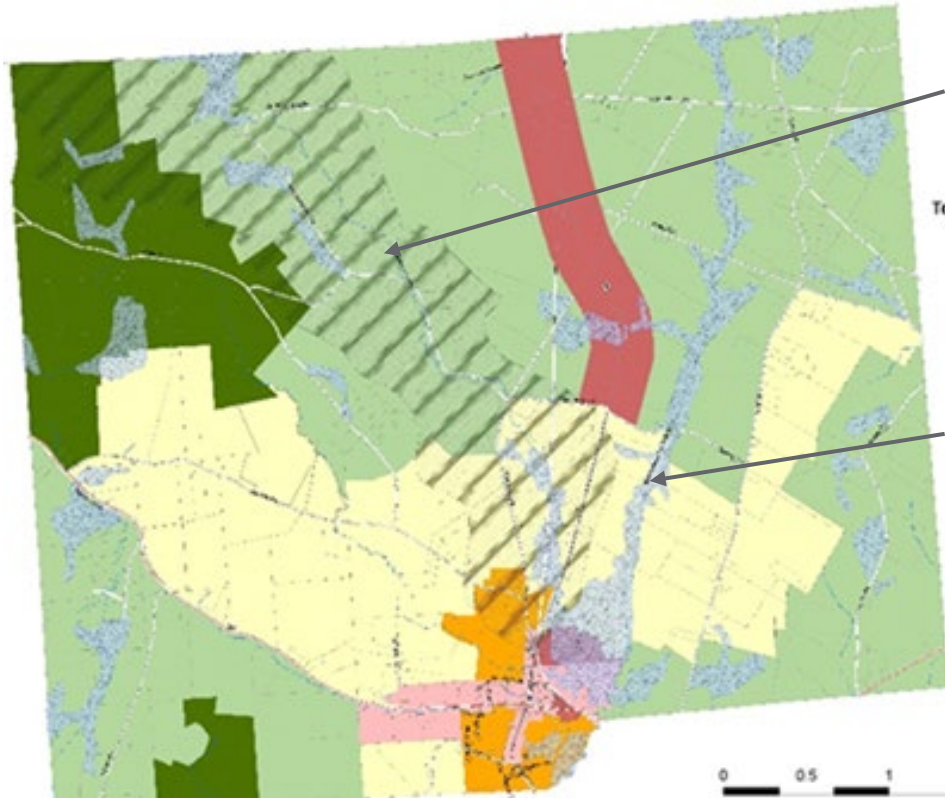
- General framework divides a municipality into “zones” or “districts” regulating land use activity
  - Permitted uses and lot configurations
  - Development location and scale
  - Other development considerations
- Districts may have a purpose statement to frame intent and distinguish them from others
- Most newer zoning maps follow parcel lines or physical features such as roads and waterbodies
- If parcels are located in more than one zoning district, text should provide direction on who will interpret and how



Village of Hamburg, NY

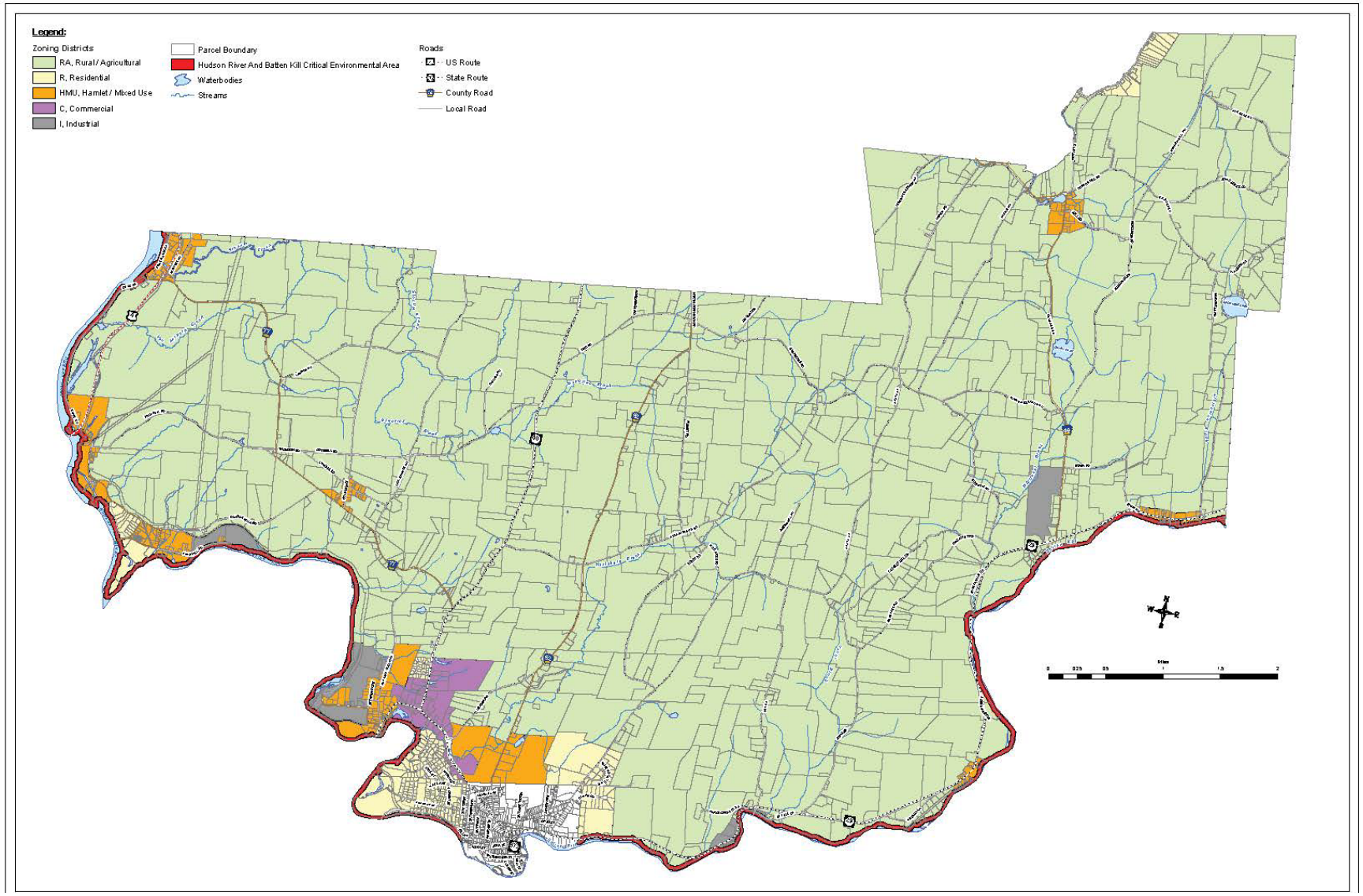
Overlay / Special Use Districts

- May address sensitive or unique areas or scenarios with more or less regulation
- Often don't follow underlying zoning boundaries
  - Waterfronts; flood-prone areas
  - Drinking water source
  - Steep slopes
  - Viewshed protection
  - Historic areas
  - Gateways, downtowns etc.
- Overlay boundaries may have text clarifying a boundary – Ex: 500' from the mean high-water mark of the lake



Town of Bridgewater, NY

Ex: Rural Zoning Map and Districts



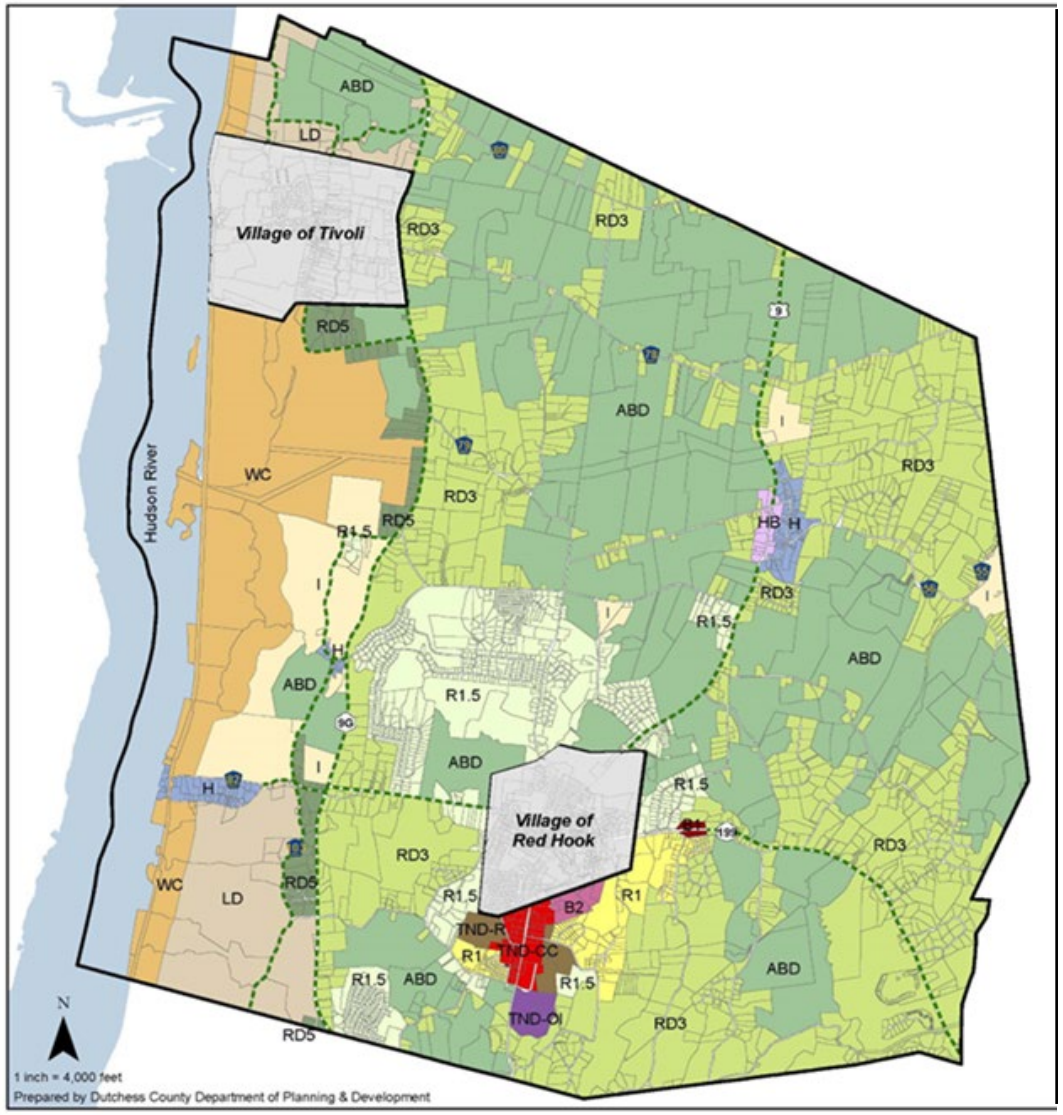
Legend:

Zoning Districts

- RA, Rural / Agricultural
- R, Residential
- HMU, Hamlet / Mixed Use
- C, Commercial
- I, Industrial

Town of Greenwich, NY

Ex: More Complex Example



Town of Red Hook
Zoning Map

Adopted: July 12, 2011
Amended: December 13, 2011
Amended: February 14, 2017
Amended May 30, 2018

Legend

- Municipal Boundaries
- Parcel Boundaries
- Agricultural Business District
- B1 - Business 1
- B2 - Business 2
- H - Hamlet
- HB - Hamlet Business
- I - Institutional
- LD - Limited Development
- R1 - Residential 1
- R1.5 - Residential 1.5
- RD3 - Residential Development 3
- RD5 - Residential Development 5
- TND-CC - Commercial Center
- TND-OI - Office-Industrial
- TND-R - Residential
- WC - Water Conservation
- SC-O Scenic Corridor Overlay

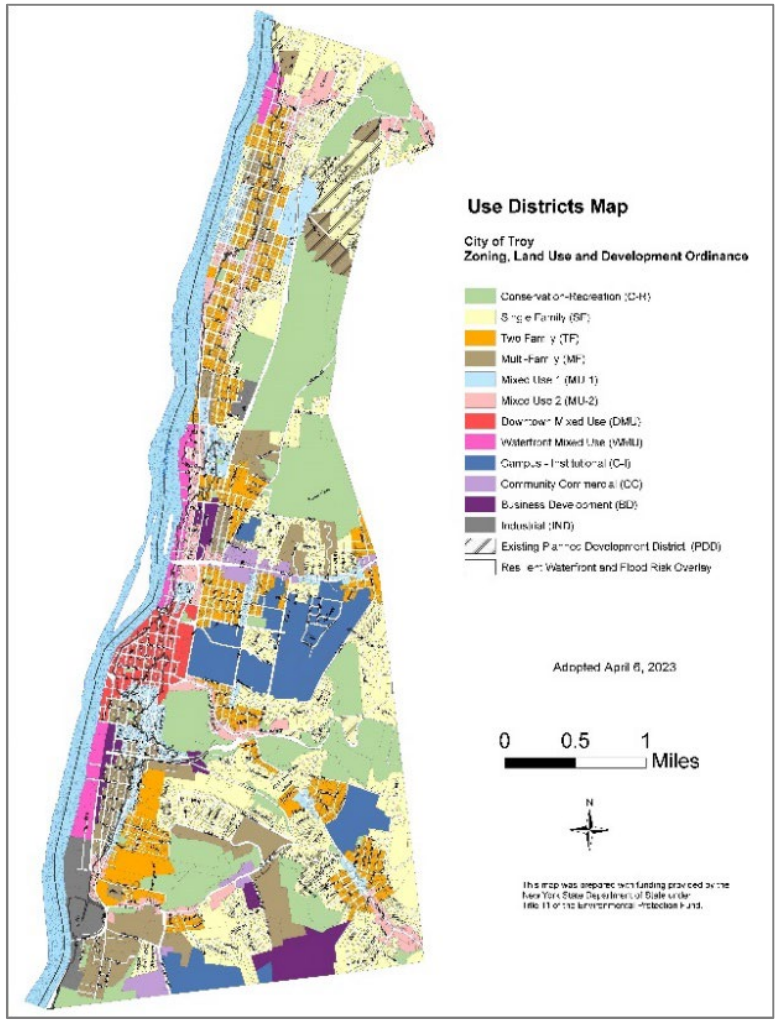
FF-O Encompasses that land designated by FEMA as a "floodplain area with special flood hazards that is likely to be flooded at least once every 100 years" as shown on the most current version of the "National Flood Insurance Program" maps as issued for the Town of Red Hook by FEMA.

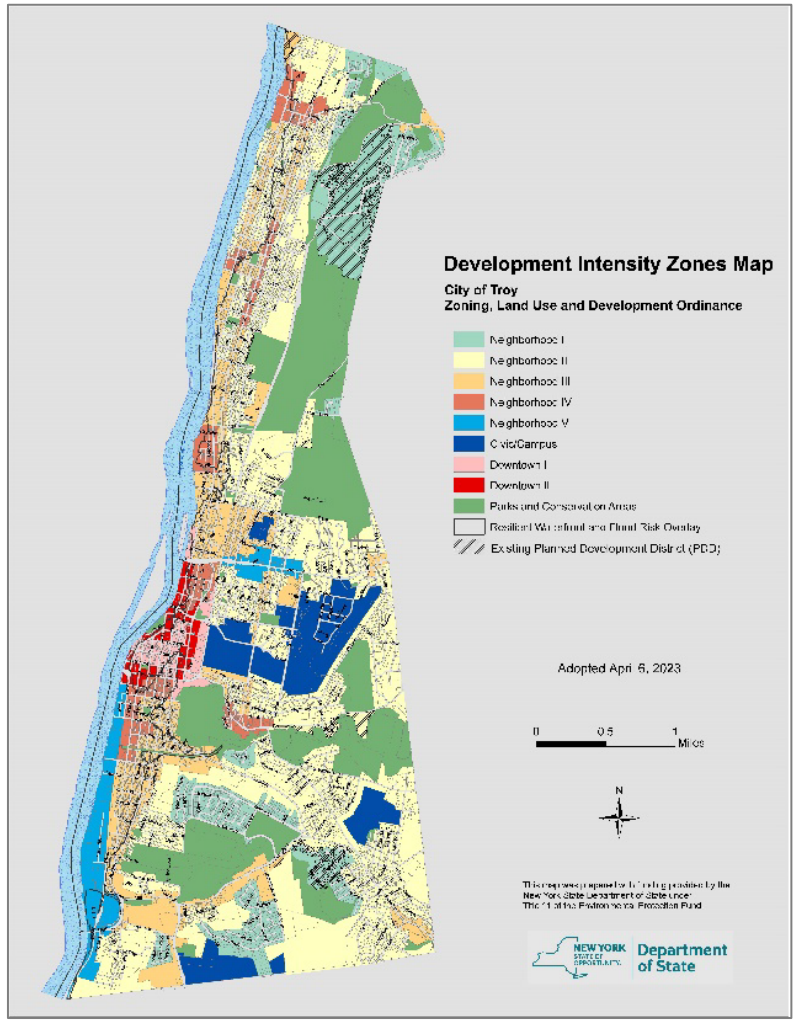
HL-O Coincident with boundaries of the National Historic Landmark District (see NHL District Map).

LI-O Coincident with the RD3 District, subject to the development standards of Section 143-49 of the Town Code.

WC Includes corridor within 100 feet of the high water mark of the Lakes Kill, Stony Creek, Saw Kill, White Clay Creek and Mudder Kill.

Multiple Map Alternatives





City of Troy, NY

Multiple Map Alternatives





City of Albany, NY

IDENTIFYING PERMITTED USES

What Land Uses Are Permitted?

- Each zoning district has a list of permitted land uses
- Land use terms used in zoning should be defined in zoning
- Any use not listed as permitted is prohibited – this is often stated in the text but not always
- Types of permission:
  - "As of right" or "by right"
  - Permitted but require site plan review
  - Permitted but requires a special use permit and often site plan review



Some zoning permits "materially similar uses" or "uses of equal or less intensity"

Determining Permitted Land Uses

§ 155-40. A/RR Agricultural/Rural Residential District.

A. Boundaries and purpose. The boundaries are defined by the Town of Conesus Official Zoning Map. The purpose of the A/RR Agricultural/Rural Residential District is to accommodate limited residential development at a density of no greater than one dwelling unit per two acres. Suitable locations are outside of neighborhood service centers, and where public water and/or sewers are not presently available. This district is created to encourage the preservation of open space and natural features while accommodating the coexistence of residential, agricultural and other land-based operations.

B. Permitted uses. In addition to those uses specified in § 155-33, permitted uses shall be as follows, subject to the requirements specified below and elsewhere in these regulations:

(1) Agricultural/farming uses, including all barns, stables, and accessory buildings necessary to the enterprise.

(2) Recreational uses, including golf courses, nature preserves, sports clubs, etc.

(3) Campsites (individual).

(4) In-home day-care facility as defined by Part 390 of the Social Service Law of New York State.

(5) Commercial day-care center.

(6) Roadside stands.

(7) Wineries/breweries/distilleries.

(8) Veterinary hospital.

(9) Private airfields.

(10) Wind-driven generators, residential.

(11) Small ground-mounted solar energy system. **[Added 6-6-2023 by L.L. No. 4-2023]**

(12) Small on-farm ground-mounted solar energy system. **[Added 6-6-2023 by L.L. No. 4-2023]**

C. Conditionally permitted uses.

(1) Residential care facility (nursing home, assisted living, and independent living.)

(2) Outdoor kennels.

(3) Mini storage facility.

(4) Auto repair facility.

(5) Manufactured home park.

(6) Cell towers.

		Residential			Commercial		
	Lakeshore	Low Density	Moderate Density	Mixed Use	Mix Use	General Business	Industrial/Research
Land Use or Activity	L1	R1	R2	R3	B1	B2	IR
Commercial plant nursery; greenhouse, garden center	N	N	P*	P*	P*	P*	P*
Roadside stand	Z	Z	Z	Z	Z	Z	N
Bed-and-breakfast facility	SC* § 270-35H	SC* § 270-35H	SC* § 270-35H	SC* § 270-35H	SC* § 270-35H	SC* § 270-35H	N
Rooming house; tourist home	N	N	N	N	SC* § 270-35H	SC* § 270-35H	P*
Nursery school; day-care facility	SC* § 270-35C	SC* § 270-35C	SC* § 270-35C	SC* § 270-35C	SC* § 270-35C	SC* § 270-35C	N
Nursing home; hospital; health-related clinic	P*	P*	P*	P*	P*	P*	N
Residential (home) business or occupation	SC* § 270-35D	SC* § 270-35D	SC* § 270-35D	SC* § 270-35D	SC* § 270-35D	SC* § 270-35D	N
Funeral home	N	N	P*	P*	P*	P*	N
Public stable	N	N	N	P*	N	N	N
Kennel; animal boarding	N	N	N	SP* § 270-36B(2)	SC* § 270-35E	SP* § 270-36B(2)	SC* § 270-35E
Keeping or raising of horses or ponies	Z	Z	Z	Z	N	N	N

Determining Permitted Land Uses

- Each land use activity should be defined in zoning but this is often not the case

  Tip: If not defined – use common resources; be consistent in application and interpretation

- Some land use categories are intentionally broad to avoid listing every type of use and ensure more are covered (e.g. retail establishments vs. florist)

- Other uses may be individually listed despite there being a broader category because they are not all permitted in the same districts (e.g. vehicle sales vs. retail establishments)

Land Use Activities	OS-R	R-SF
Motel		
Motor vehicle repair services, major		
Motor vehicle repair services, minor		
Office, general		
Open-air market	SU	
Parking lot or structure as a principal use		
Recycling facility (see also accessory uses)		
Research/Laboratory		
Restaurant		
Retail establishments not otherwise listed in Schedule A or § 325-22C of this chapter		
Self-storage facility		
Service-related, including professional and financial service establishments not otherwise listed in Schedule A or § 325-22C of this chapter		
Shooting range, indoor		
Solar energy facility, Tier 1	P	P
Solar energy facility, Tier 2		
Storage yard/contractor's yard		
Theater/Entertainment venue, commercial		
Vehicle sales, rental and lease		
Veterinary clinic or hospital		
Warehouse/Wholesale and distribution		

Interpreting Definitions

- Glossary or section devoted to definitions
- Some term(s) might be defined in the regulation itself – not always consistent!
- **Tips for interpreting definitions**:
  - Don't assume the meaning of key terms
  - For identifying whether a use meets a definition, **don't focus on the term** – focus on the definition in the zoning regulations
  - Be mindful of these loaded terms:
    - "Including but not limited to"
    - "Such as"
    - "Any"

Ex: Recreational uses

- Recreation Facility
- Recreation Facility, Commercial
- Recreation Facility, Indoor
- Recreation Facility, Outdoor
- Recreation Facility, Personal
- Recreation Facility, Public

Special Use Permits in Zoning

- Use permitted by zoning but subject to additional review and possible conditions
- Zoning identifies activities requiring an SUP – ZEO interprets
- Allows for greater variety of land uses while recognizing that some uses may present challenges to compatibility due to location or nature of use
- Criteria/conditions for SUPs must be included in zoning
- Allows mitigation of potential adverse impacts
- Often used in conjunction with Site Plan Review
- Approval required before building permit



Gas stations often require an SUP to review for potential impacts

General City Law § 27-b
Town Law § 274-b
Village Law § 7-725-b

Interpreting Accessory Uses / Structures

- Accessory uses and structures are subordinate to a principal use or structure
  - Garages, sheds, pools, patios, outdoor storage, personal agriculture, home occupations, parking etc.
- Accessory “structures”
  - Definition in zoning may differ from that in the Uniform Code
  - May exclude some structure types (fences) / under a certain size
- Uses and structures are regulated for location and scale but are often more flexible than principal uses

SCHEDULE A: PERMITTED USES
P = Permitted as of right **SU**= Requires a Special Use Permit
Blank = Prohibited in that District

USE CATEGORY	RR	R	R-2	R-3	MU	CB	Additional Standards
Entertainment and recreation, indoor, commercial						P	
Entertainment and Recreation, outdoor, commercial not otherwise listed in Schedule A	SU						
Fitness and/or spa establishment					P[2]	P	
Funeral home, mortuary, but not including crematorium					P[2]		
Gasoline service station, with or without convenience store						SU	§170-25
Greenhouse, plant nursery	SU						§170-26
Hotel/Inn					SU[2]	P	
Industry, light (not listed separately in Schedule A)						SU	
Laundromat					SU[2]	P	
Machinery repair						P	
Marina	P	P	P	P	P	P	§170-29
Medical office, clinic or hospital					P[2]	P	
Motel	SU						§170-30
Motor vehicle repair						P	§170-31
Office, General and professional					P[2]	P	
Restaurant						P	
Retail sales not otherwise listed in this Schedule A					SU[2]	P	
Service, personal not otherwise listed in this Schedule A					P[2]	P	
Shopping center/plaza						P	
Veterinary clinic or hospital						P	
ACCESSORY STRUCTURES AND USES							
Accessory dwelling unit to single family dwelling, 900SF or less	P	P	P	P	P		§170-19
Accessory use, customary structure or use	P	P	P	P	P	P	
Agriculture	P	P	P	P	P		§170-21
Boat storage, commercial	P	P	P	P	P		§170-23
Drive-through service						SU	§170-24
Farm stands/roadside stands	P				P		§170-36
Greenhouse, commercial, accessory to residence	SU				SU		§170-26
Guest cottage	P	P					
Home-based business, major	SU		SU	SU	SU	SU	§170-27
Home-based business, minor	P	P	P	P	P	P	§170-27
Outdoor storage, accessory to a commercial use	SU					P	§170-34
Outdoor wood boiler	P						
Redemption center, bottles and cans						P	
Solar energy system	P	P	P	P	P	P	§170-36
Off-Street parking of tractor trailers, tandem-axle, tri-axle, other vehicles of 18,000 pounds or more	P					P	
Wind energy conversion system, small	P						§170-40

Pre-existing Nonconforming Uses



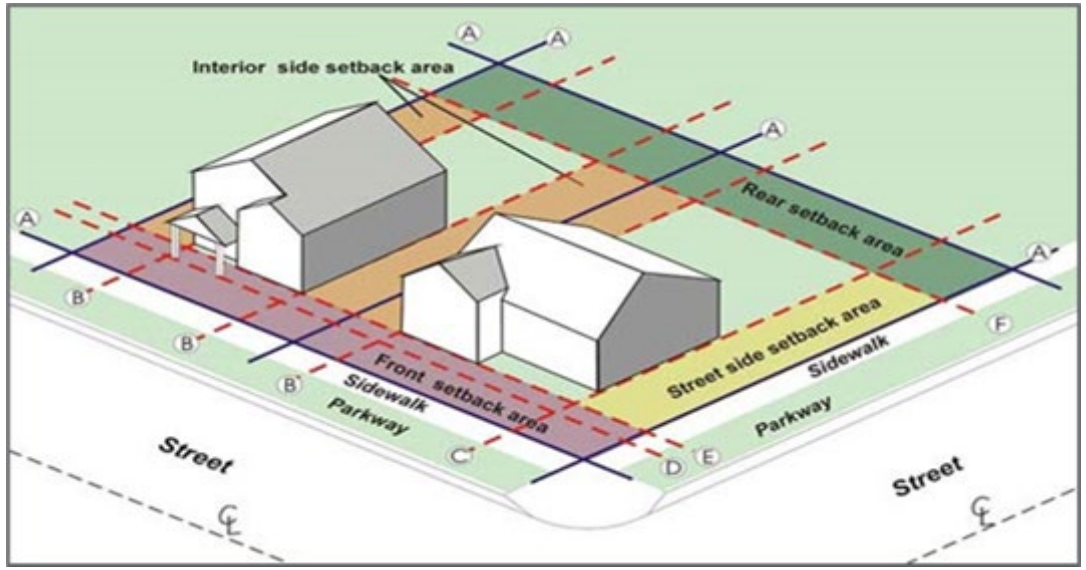


- Legally existed prior to current or proposed zoning
- Permitted to continue but not necessarily permanent
- Protection lost after abandonment (typically after 12 months)
- Zoning may include amortization of certain uses (for minor investments i.e. signs)
- **Use variance not needed to continue, but needed for expansion unless otherwise stated in zoning**

LOT DEVELOPMENT STANDARDS

Dimensional / Form Requirements

- Regulation of lot development and form
- Established within districts and vary based on existing or desired characteristics of an area/neighborhood
  - Minimum lot size
  - Setbacks and build-to lines
  - Lot width/frontage – flag lots
  - Maximum lot coverage / imperviousness
  - Corner lots
  - Height
  - Density



- Methods of measurement vary; language can be vague
- Relief from standards requires an area variance from the ZBA
- Graphics may be used to illustrate concept, but standard should be in text

Dimensional Requirements

	Zoning Districts						
	P	**R**	**NC-1**	**NC-2**	**VC**	**AC**	**I**
Minimum lot size	20,000 square feet	9,000 square feet	9,000 square feet	9,000 square feet	-	12,500 square feet	12,500 square feet
Minimum frontage	-	70 feet	70 feet	70 feet	-	100 feet	100 feet
Minimum depth	-	125 feet	125 feet	125 feet	-	125 feet	125 feet
Front yard, minimum	-	Lesser of the yards previously established on adjacent parcels*			-	15 feet from ROW	15 feet from ROW
Front yard, maximum		Lesser of the yards previously established on adjacent parcels +10 feet		Lesser of the yards previously established on adjacent parcels*	-	100 feet from ROW	100 feet from ROW
Side yard minimum	-	8 feet	8 feet	8 feet	-	15 feet	15 feet
Rear yard minimum	-	30 feet	30 feet	30 feet	-	15 feet	15 feet
Maximum lot coverage	-	35%	35%	35%	100%	35%	50%
Principle/building minimum height**	-	-	-		25 feet	-	-
Principle building maximum height**	35 feet	35 feet	35 feet	35 feet	45 feet	35 feet	50 feet
Accessory building/structure maximum height***	15 feet	20 feet	20 feet	20 feet	15 feet	35 feet	35 feet

* If both adjacent parcels are vacant, front yard shall be between 10 and 30 feet from ROW

** See definition of building height in § 210-230.

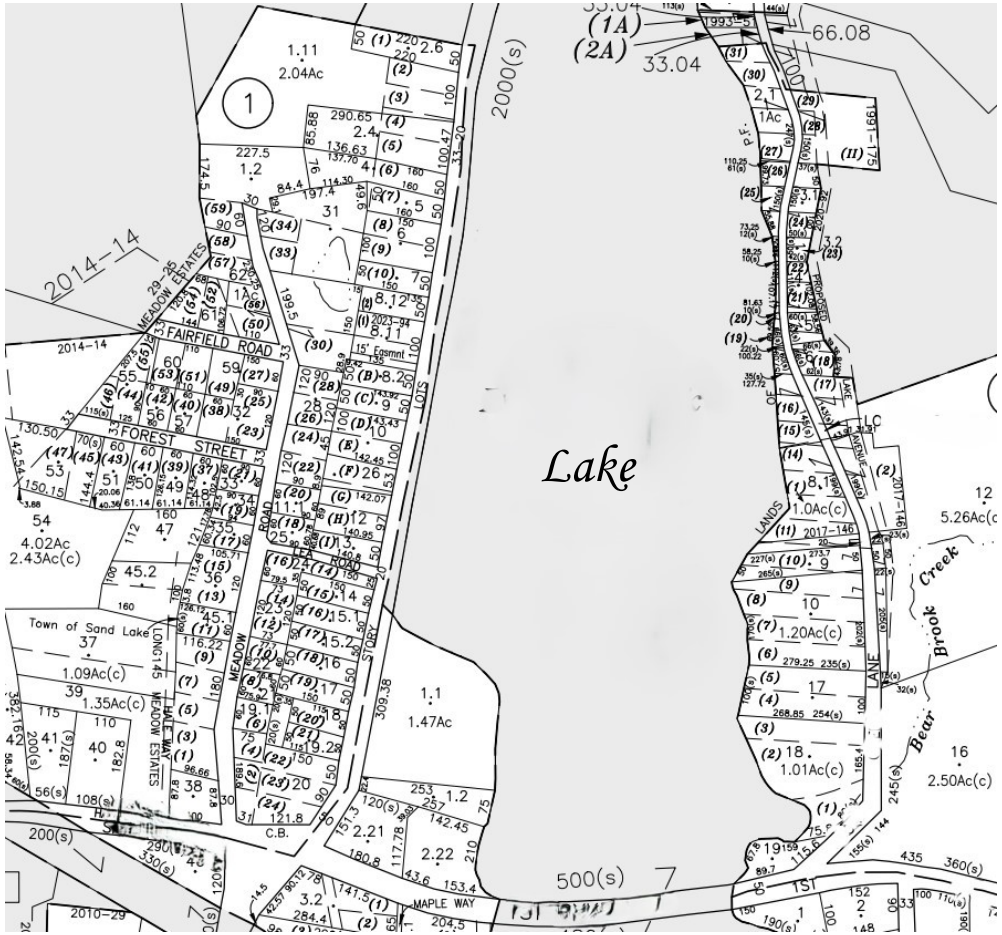
*** Accessory structures, such as towers or silos, shall not exceed height twice their distance from the nearest lot line.

Tip:

Don't overlook footnotes as they may contain important regulations

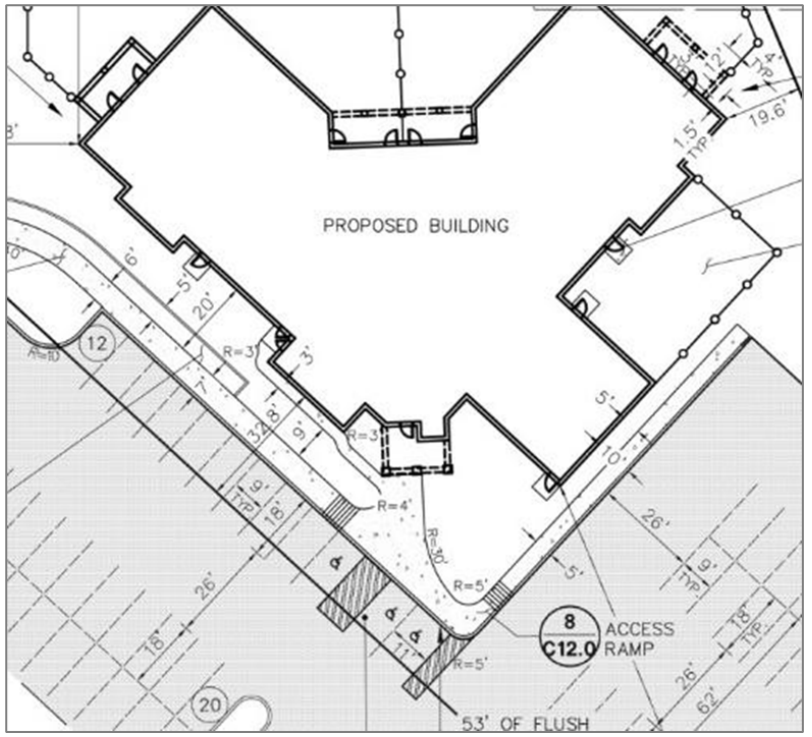
Pre-existing Nonconforming Lots

- Legally existed prior to current or proposed zoning
  - "Undersized lots of record"
  - Zoning may permit some use of substandard lots without seeking relief if setbacks are met
    - **If there is no provision, area variances must be sought**
  - Zoning may allow an existing nonconforming building footprint to be reused in the case of redevelopment, renovation or rebuild



Site Plan Review

- Review of a rendering, drawing, or sketch with project's proposed design and layout
- **Purpose:** to improve physical design and layout of development proposals
- Zoning or site plan law identifies activities requiring review – ZEO interprets
- Activities must comply with zoning or any necessary area variances acquired, prior to site plan approval
- **Approved site plan required prior to issuing building permit**



General City Law § 27-a
Town Law § 274-a
Village Law § 7-725-a

ADDITIONAL REGULATION OF CERTAIN USES

Additional Regulations for Certain Uses

- Additional standards that address common “impacts” or conditions associated with use
- Applied to specific uses in tandem with dimensional, design and other supplemental standards, often wherever permitted
- **Must be met unless granted relief**

Common Examples:

- Accessory dwelling units
- Short-term rentals
- Home occupations
- Adult uses
- Kennels
- Renewable energy facilities
- Manufactured housing parks
- Drive-through facilities
- Gas stations
- Campgrounds

Additional Use Regulations

Example:

Kennels.

A. Minimum lot size. Kennels shall have a minimum lot size of five acres in all zones.
B. Setbacks. All kennels with outdoor exercise pens or runs shall locate such pens and runs no closer than 300 feet to any adjoining property line.
C. Performance criteria. Adequate landscaping and/or fencing shall be provided to create a visual, sound, and odor buffer between such facility and adjacent properties.

Supplemental Regulations

- Accessory elements and site improvements that could apply to projects. Examples:
  - Parking and loading
  - Fences and walls; screening
  - Garbage/recycling storage
  - Building design standards
  - Signage, lighting, landscaping
- Standards are required (“shall” / “must”)
- Guidelines (“should”) are encouraged and may be negotiated as part project review









OTHER PERMITS/ APPROVALS

Boundary or Lot Line Adjustment

- Alteration of lot lines or dimensions of any lots in which no additional lots are proposed
- Local law may delegate review and approval to planning board or ZEO/CEO
- Requires a survey with proposed changes to lot lines
- Review for whether new lot configurations meet zoning
  - Lot size, frontage, setbacks

Common reason for BLAs:

- Correct physical encroachment (driveway, garage, shed, fence)
- Legal settlement of dispute requires transfer of property
- Enlarge or improve substandard lot to meet minimum standards for buildable lots

Subdivision



General City Law § 32 & § 33
Town Law § 276 & § 277
Village Law § 7-728 & § 7-730

- The division of a parcel of land into lots, blocks or sites (with or without streets) for the purpose of sale, transfer of ownership, or development
- Reviewed and approved by Planning Board
- ZEO to determine if proposed lots meet zoning prior to Planning Board review
  - Minimum lot size
  - Lot width / road frontage
  - Sometimes depth

Planned Development/Unit Districts



- Zoning may include a floating zoning tool for property owner(s)/developers to seek a rezoning for a specific project that is not otherwise permitted in zoning
- PDDs/PUDs permits an alternative mix of uses and a more flexible and efficient design
- Typically requires a zoning amendment and adoption by the local governing board with a recommendation from Planning Board
- Local process for approval varies

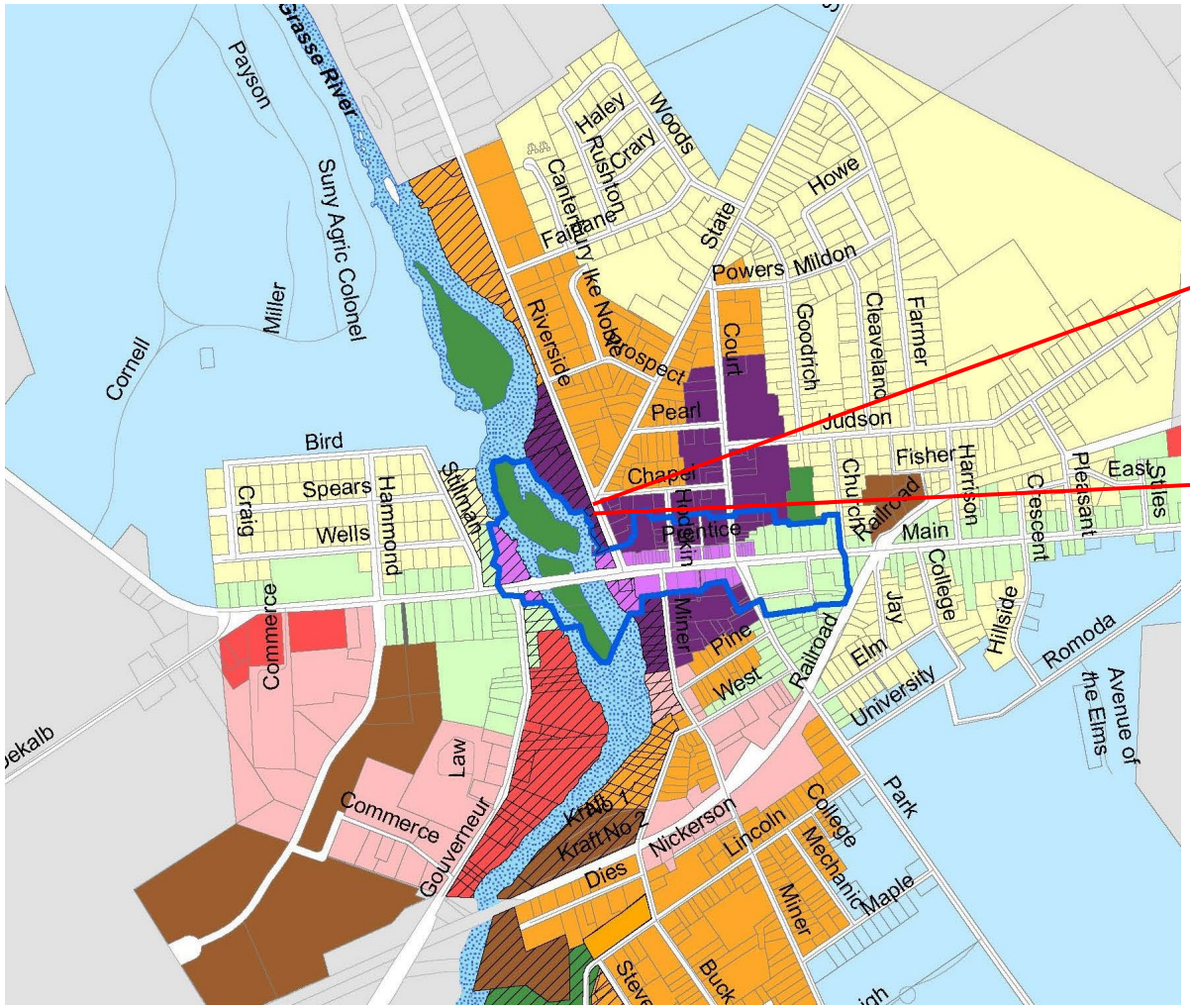
PROJECT EXAMPLES

Example Project 1

- Proposed mixed-use building on a vacant 6,543 SF riverfront lot
- New two-story, 5,000 GFA building (2,500 SF footprint)
- First floor: restaurant/bar with outdoor seating
- Second floor: two apartments
- Off-street parking – 8 spaces



Step 1: Consult zoning map



Zoning Districts

- Open Space and Recreation (OS-R)
- Residential Single-Family (R-SF)
- Residential Multi-Family (R-MF)
- Neighborhood Mixed-Use (NMU)
- Downtown Mixed-Use (DMU)
- General Mixed-Use (GMU)
- Main Street (MS)
- Corridor Commercial (CC)
- Technology Business Light-Industrial (TBL)
- Education-Campus (E-C)
- Waterfront Overlay (WO)
- Historic Districts Overlay (HDO)**
- Town of Canton

N

Property located in:

- Downtown Mixed Use (DMU)
- Waterfront Overlay (WO)

Step 2: Determine if uses are permitted

P = Permitted SU = Requires a Special Use Permit Blank = Prohibited

Note: A land use activity may also require site plan review per § 325-89.

Land Use Activities	Zoning Districts										Supplemental Regulations
	OS-R	R-SF	R-MF	E-C	NMU*	MS	DMU	GMU	CC	TBL	
Principal Residential Uses											
Conversion of existing nonresidential structures into multifamily or group dwelling			P	P	P		P	P			§ 325-37
Dormitory				P							
Dwelling unit, above first floor street level only					P	P	P	P			
Dwelling, group			P	P				P			
Dwelling, multifamily			P	P	P		P	P			§ 325-37
Dwelling, single-family		P	P	P	P			P			§ 325-34
Dwelling, two-family			P	P	P			P			
Fraternity house/sorority house			P	P							
Live/Work unit				P	P	P	P	P	P		
Residential care facility/community residential facility			P				P	P			
Townhouse		SU	P	P				P			§ 325-42
Principal Community Service Uses											
Animal shelter									P	P	
Broadcasting/Transmission facility										P	
Cemetery	P	P	P	P				P	P		
Club, membership and lodge			P	P	P*		P	P	P		
College/University			SU	P	P*		P	P			

- Schedule of permitted uses: residences above 1st floor, restaurants and bars are permitted “as of right” with Site Plan Review
- No noted additional regulations of uses
- Waterfront Overlay provisions in text: activities permitted although location of building may require a special use permit if not setback 50’ from high water mark

Step 3: Determine if proposed lot development meets zoning

Zoning District	Minimum Lot Area (SF = square feet)	Maximum Impervious Surface	Minimum Lot Width	Principal Use Required Yard Setbacks			Building Height (minimum/ maximum)
				Front[1] (minimum/ maximum)	Side (minimum)	Rear (minimum)	
Education-Campus (E-C)	Residential: 8,000 SF for single-/two-family dwellings All other uses: 12,000 SF	35%	Residential: 60 feet Nonresidential: 100 feet	For lots abutting zoning districts R-SF, R-MF, NMU: 15 feet minimum/30 feet maximum or the average or the average of adjacent lots[2]	10 feet minimum one side/25 feet minimum total of both sides for lots	50 feet	For lots abutting zoning districts R-SF, R-MF, NMU: 35 feet maximum; all interior education campus lots 50 feet maximum
Neighborhood Mixed Use (NMU)	Residential: 8,000 SF for a single dwelling unit, plus 2,000 SF for each additional dwelling unit Nonresidential: 20,000 SF	40%	75 feet	20 feet minimum/35 feet maximum or the average of adjacent lots[2]	10 feet minimum one side/25 feet minimum total of both sides	30 feet	1.5 stories minimum/2.5 stories and 35 feet maximum
Main Street (MS)	None	100%	None	0 feet minimum/5 feet maximum	0 feet minimum/10 feet maximum total of both sides	5 feet	2 story minimum/3.5 stories or 40 feet maximum
Downtown Mixed Use (DMU)	None	70%	None	Or the average of adjacent lots[2]	5 feet one side/15 feet total of both sides	30 feet	2 story minimum/3.5 stories or 40 feet maximum
General Mixed Use (GMU)	Residential: 8,000 SF for a single dwelling unit, plus 2,000 SF for each additional dwelling unit Nonresidential: 20,000 SF	35%	60 feet	0 feet minimum/15 feet maximum	20 feet minimum one side/50 feet total of both sides	30 feet residential use or mixed use; 50 feet nonresidential	2.5 stories and 35 feet maximum

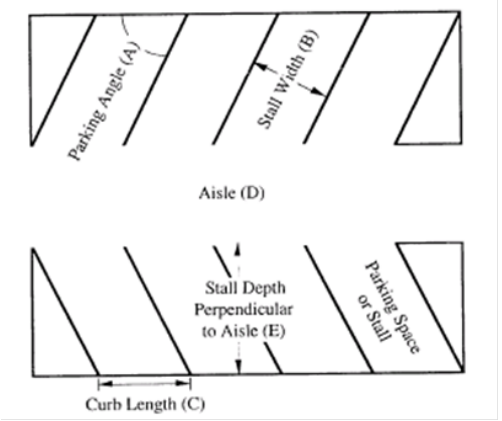
- No minimum lot size or frontage creates flexibility
- Will the building be within the permitted building envelope?
  - Setbacks/build to line height minimums and maximums
  - What about the 50’ setback from river?
- Will project exceed maximum imperviousness?
  - Building, parking
  - Outdoor seating area?

Step 4: Consider other development requirements

- Found in “Supplemental Regulations”
  - Building design standards, stormwater management, **off-street parking**, possible bike parking, signage, lighting, landscaping
- Need to consider riverfront public access per Waterfront Overlay







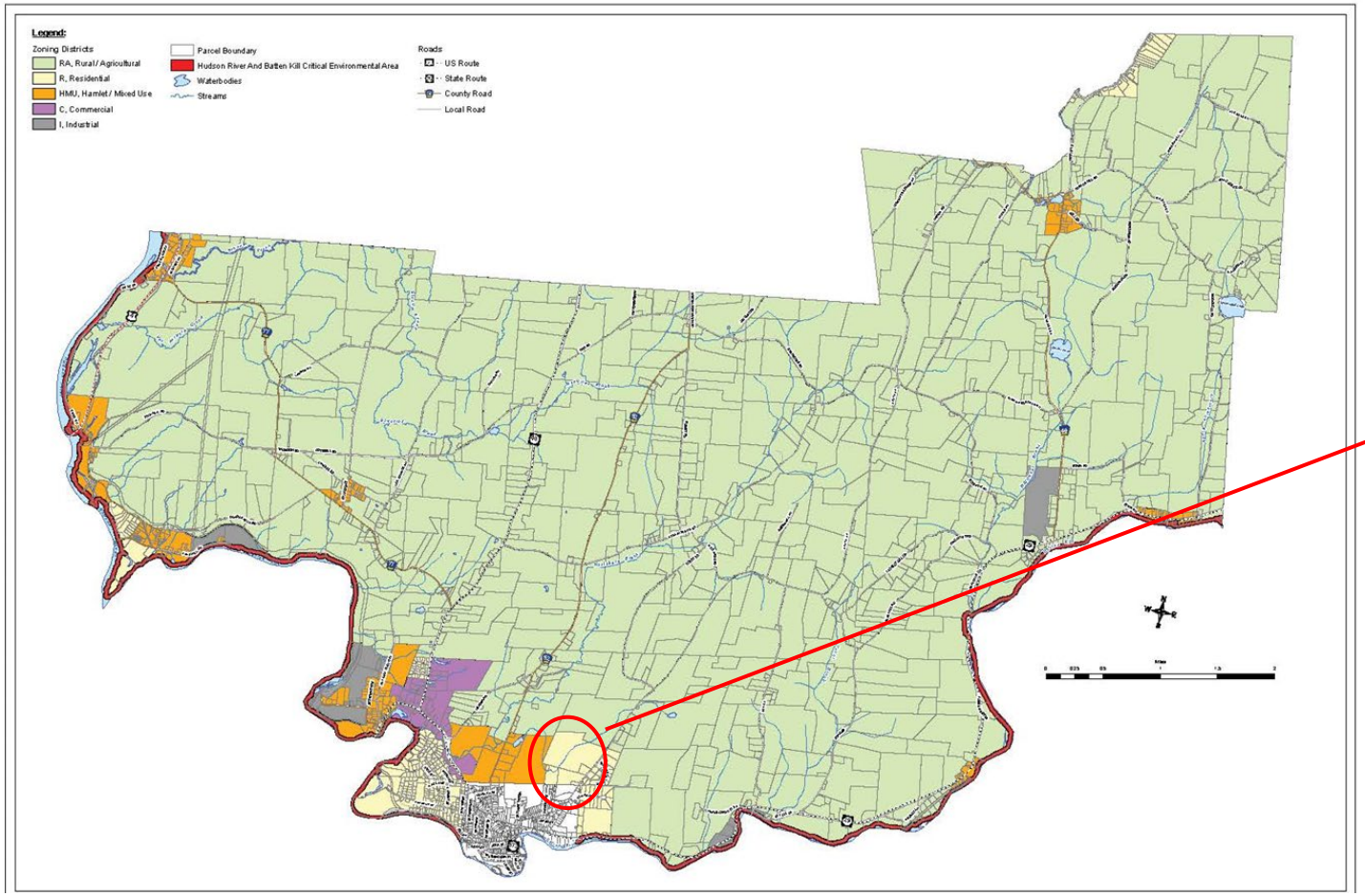
Example Project 2

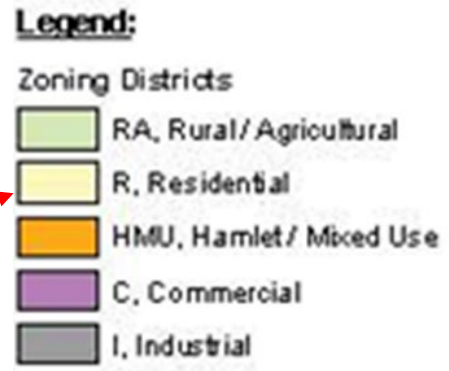
- Applicant is proposing to convert a portion of their home into a salon while the remainder of the home will be their residence
  - Salon gross floor area: 350 SF / Existing dwelling: 2500 SF
  - Possibly one employee in the future
  - Daily customers
  - Hours of operation TBD
  - Parking not addressed



Example Project 2

Step 1: Identify the zoning district in which the property is located





Example Project 2

KEY:
PP = Principal permitted use.
SPR = Use allowed by site plan review.
SUP = Use allowed by special use permit.

Use	Rural Agricultural District	Residential District	Hamle Mixed-U Distric
Adult day care	SUP	SUP	SUP
Adult use			
Agricultural structure or use	PP	PP	PP
Airstrip	SUP		
Auction facility	SUP		
Automobile sales and repair	SUP		
Bank			SPR
Bar/tavern			SUP
Bed-and-breakfast	SPR	SUP	SPR
Boat and machinery sales and repair	SUP		
Business incubator	SUP		
Campground	SUP		SUP
Cemetery	SPR		SPR
Child day-care center	SUP	SUP	SUP
Child day care, exempt	PP	PP	PP
Child day care, family	PP	PP	PP
Child day care, group	SUP	SUP	SUP
Child day care, small	PP	PP	PP
Co-location	PP	PP	PP
Composting facility	SUP		
Contractors yard	SUP		
Convenience store			SUP
Crematorium	SUP		

Use	Rural Agricultural District	Residential District	Hamlet/ Mixed-Use District	Commercial District	Industrial District
Cultural building/use	SPR	SPR	SPR	SPR	
Drive-in theater	SUP				
Drive-through				SPR	
Educational building/use	SPR	SPR	SPR	SPR	
Farm worker housing	PP	PP	PP	PP	PP
Farmstand	SPR		SPR	SPR	
Fast-food restaurant				SPR	
Forestry use	PP	PP	PP	PP	PP
Funeral home	SPR		SPR	SPR	
Game farm	SUP				
Gas station			SUP	SUP	SUP
Grocery store				SPR	
Home occupation Type 1	PP	PP	PP	PP	PP
Home occupation Type 2	SUP	SUP	SUP	SUP	SUP
Horse farm	PP	PP	PP	PP	PP
Horse-riding stable	SPR				
Hospital/medical building/use	SUP		SPR	SPR	
Indoor recreational use			SUP	SPR	
Industry, heavy					SPR
Industry, light	SPR			SUP	SPR
Junkyard	SUP				SUP
Kennel	SUP			SUP	
Large-scale solar energy system	SUP				
Livery	SUP				SPR
Manufactured home park	SUP		SUP		
Marina	SUP		SUP		
Membership club	SPR		SUP	SPR	
Mining	SUP				SPR
Mixed-use development			SPR	SPR	
Motel/hotel/inn	SUP		SPR	SPR	
Multifamily house		SUP	SPR	SPR	
Municipal building/use/service	SPR	SPR	SPR	SPR	SPR
Nursery	SPR		SPR	SPR	

Step 2: Check R-Residential District to see if proposed activity is allowed

Possible uses from list:

- Co-location?? – “permitted use”
- Home occupation, Type 1 – ”permitted use”
- Home occupation Type 2 – “allowed with a special use permit”

Step 3: Check zoning law definitions for each term

✓ **Home occupation, Type 2**

Example Project 2

- **Step 4: Check zoning for additional regulations**
  - Article XI - Supplementary Regulations, Home Occupations Type 2
    - Limit on number of employees on premises
    - Limit on floor area based on principal dwelling size
    - Regulation on hours of operation
    - Limit on signage
  - Off-street parking to be determined by Planning Board (§190-42)
- **Step 5: Issue zoning determination**
  - Requires a special use permit
  - Is the project as presented compliant with zoning? Are all details provided to make the determination?

Tips and Best Practices

- Apply the zoning as written – use definitions of terms in the zoning law, not necessarily common meanings of terms
- Be consistent when interpretating zoning language
- Remember that the ZBA is a resource for interpretations
- Maintain good records of your zoning determinations
- Consider requesting a part-time review boards secretary/clerk to assist with administrative responsibilities, as applicable
- Keep a list of zoning language that is unclear, problematic (i.e., contradictory), or missing for future zoning updates
- Communicate with local governing board about zoning update needs

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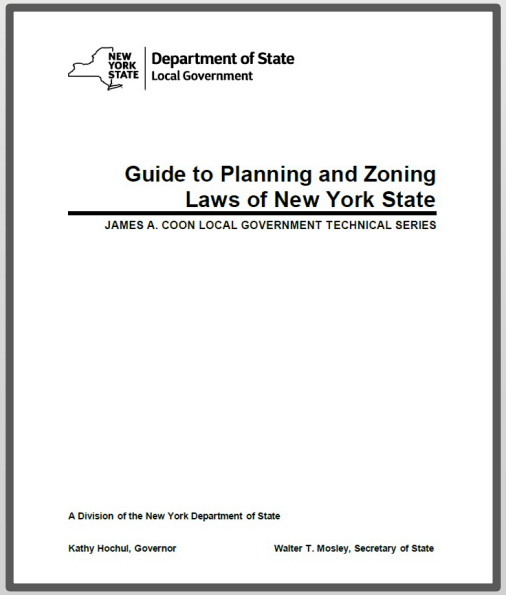
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