



REVISING ZONING

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Comprehensive Plan – Purpose

- Statement of community vision and goals and recommended actions for Plan implementation
- Serves as a framework and defense for land use regulations which focuses on immediate and long-term community protection, enhancement and growth
- Provides guidance for decision making on growth and development and prioritization of community investments
- Increases potential funding opportunities for projects supported in the Plan
- Other government agencies shall consider a municipality's plan while proposing capital projects

71% of NYS Local Governments have Comprehensive Plans

98% of Cities
65% of Villages
73% of Towns

General City Law § 28-a
Town Law § 272-a
Village Law § 7-722

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Comprehensive Plan – Considerations

- Current land uses and growth patterns
- Demographics and trends
- Community character/preservation
- Infrastructure adequacy
- Economic development
- Housing
- Natural resource protection
- Resilience



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What Is Zoning?

- **Any** regulation of land use, location, lot area and bulk (local law or ordinance)
- 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



90% of NYS Local Governments have Zoning

- 100% of Cities
- 96% of Villages
- 86% of Towns

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What Can Zoning Do For Your Community?

- Help maintain and enhance community character
- Support current land uses and compatible new ones; mixed use 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



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Zoning Trends

- More emphasis on development form to address:
 - Compatibility amongst land uses
 - Preservation of community character
 - Interaction with public and civic spaces
- More mixed-use neighborhoods/transition areas; less auto-orientation
- More housing choice for all ages and incomes:
 - Accessory dwelling units, "missing middle housing"
 - Programs to generate more affordable units



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Zoning Trends

- Options for adaptive reuse of existing vacant structures
 - Multi-family and services in former schools and churches in residential neighborhoods
 - Multi-family housing in empty commercial and industrial buildings in predominantly commercial areas
- Zoning for resilience
 - Low impact development practices
 - Green infrastructure
 - Avoiding flood-prone areas for development



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WHEN TO AMEND

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Signs That It's Time To Update Your Zoning

- You updated your Comprehensive Plan and Goals changed significantly
- New technologies or uses are proposed not defined or addressed in zoning
- New infrastructure installations support growth in areas not zoned for more density or intensity
- Development trends seem to be getting worse, not better



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Signs That It's Time To Update Your Zoning

- Can't decipher zoning map
- Many interpretations and/or variances being sought/granted
- Outdated terminology or language
- Confusion on definitions, wording, what's allowed and prohibited, etc.
- Lack of guidance for permitting reviews and decisions



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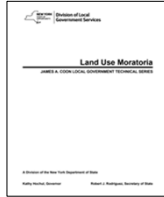
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Adopting Moratoria

Avoid establishing unwanted uses in some or all zoning districts



- May be enacted to gather information to adopt new regulations
- Development that might occur without moratorium could undermine value of regulations in progress
- Should be for fixed time period with specified end date, no longer than reasonably necessary to adequately address issues



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ZONING CONTENTS

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Zoning Framework

- General framework uses map(s) and districts which define permitted uses, lot area, bulk and form standards
- Additional regulations of use/site functionality, adverse impact mitigation, community character and natural resource protection
- Illustrations or diagrams used to present key concepts
- Permitting and administrative process



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General Text Provisions All Codes Should Have

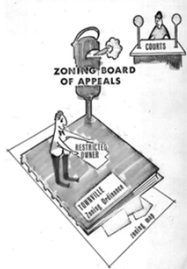
- Statutory source of power and intent – **reference Comprehensive Plan**
- Definitions
- Reference official zoning map and establishment of districts
- Relationship to other regulations
 - NYS Uniform Fire Prevention & Building Code
 - Site plan or subdivision review (easier to administer when combined into one law)
- Permitting process
- Administration, enforcement and appeals process
- Saving or severability clause

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Zoning Requires a Safety Valve

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



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Updating Zoning Districts and Maps

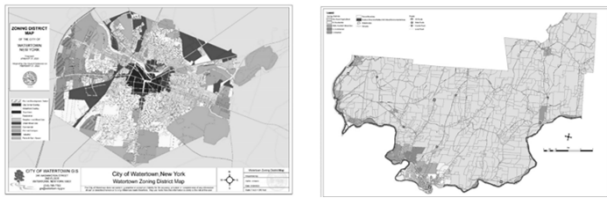
Things to consider:

- Districts reflect supported mixes of uses/densities in the comprehensive plan?
- Purpose statements for each district clearly defined?
- Minor distinctions between zones call for consolidation?
- Relation to current transportation, infrastructure, modern design?
- Adequate transition zones?
- Effect of strip zoning?

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Zoning Districts and Maps



No one size fits all!

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Identifies Permitted 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
RESIDENTIAL USES							
Dwelling, single-family	P	P	P	P	P		
Dwelling, two-family, newly constructed			P	P	P		
Dwelling, two-family, conversion of a single-family residence					P		
Dwelling, multi-family					P		\$175-32
Dwelling, temporary rental	P	P	P	P	P		
Dwelling, units above first floor commercial					P		
Dwelling, existing in the line of Chapter adoption	P	P	P	P	P		
Live-Work Space					P		
Manufactured home, individual					P		\$175-36
Residential care facility			SU	SU	SU		
Senior housing			SU	SU	SU		
Townhouses	SU				SU		
COMMUNITY USES							
Cemetery	P					P	
Club, membership and lodge						P	
Community center	SU					P	
Cultural facility		SU	SU	SU		P	
Daycare, child-care, day-care facility	P	P	P	P		P	
Day care, adult (day treatment facility)						P	
Municipal government facility	P	P	P	P		P	
Park and recreation, public	P	P	P	P		P	
Parking lot, public						P	
Public utility installation not otherwise listed	SU	SU					
Religious institution	P	P	P	P		P	
School		P	P	P		P	

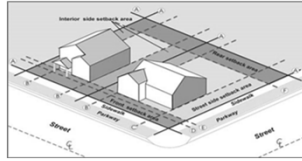
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Dimensional / Form Requirements

- Minimum lot size
 - Available infrastructure / adequate space for wells/septic
- Setbacks and build-to lines
- Frontage – flag lots
- Maximum lot coverage / imperviousness
- Corner lots
- Height considerations
- Application to accessory uses

- Things to consider:**
- Method of measurement
 - Tools for flexibility



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Dimensional Requirements

District	Minimum Acres per Principal Building	Minimum Lot Area ¹ (SF = Square Feet)	Minimum Lot Width	Maximum Impervious Surface	Required Yard Setbacks			Shoreline Restrictions	
					Front	Side On-lot for Setback	Rear	Setback	Frontage
Resource Conservation	45	5 acres	200 feet	n/a	50 feet	25 ft. 25 ft.	25 ft.	The shoreline setback shall be the greater of 12 feet	200 feet
Golf Course	None	1 acre	75 feet	n/a	10 feet	10 ft. 24 ft.	12 ft.		100 feet
Rural Residential 1	8.5	2 acres	150 feet	10%	50 feet	25 ft. 25 ft.	25 ft.		150 feet
Rural Residential 2	3.25	1 acre	100 feet	25%	25 feet	25 ft. 50 ft.	25 ft.		125 feet
Medium Density Residential	1.3	20,000 SF	75 feet	40%	20 feet	15 ft. 24 ft.	15 ft.	inset from the original New York State property lines or the required shoreline setback of the NYS Adirondack Park and the Adirondack Park Land Use and Development Plan (see also Article 17, C (2))	100 feet
Hamlet Residential	None	5,000 SF with public water & sewerage; 20,000 SF without	40 feet	75%	10 feet	10 ft. 24 ft.	12 ft.		50 feet
Hamlet Mixed Use ²	None	10,000 SF with public water & sewerage; 20,000 SF without	50 feet	60%	20 feet	12 ft. 50 ft.	12 ft.		50 feet
Waterfront Commercial	None	5,000 SF with public water & sewerage; 20,000 SF without	50 feet	70%	10 feet	10 ft. 24 ft.	12 ft.		50 feet
Mixed Use District	8.5	None	75 feet	25%	30 feet	20 ft. 50 ft.	25 ft.		n/a
Business Development	1.3	None	75 feet	50%	30 feet	20 ft. 50 ft.	25 ft.		n/a

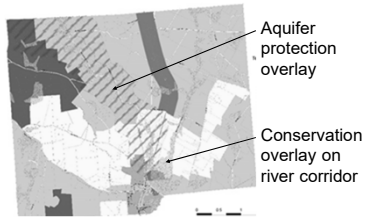
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Overlay / Special Use Districts

May address sensitive or unique areas or scenarios that require more or less regulation

- Waterfronts; flood-prone areas
- Drinking water source
- Steep slopes
- Viewshed protection
- Historic areas
- Gateways, downtowns etc.



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Additional Use Regulations

- Applied to specific uses in tandem with dimensional, design and other supplemental standards often wherever permitted

Examples:

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

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Supplemental Regulations

- Accessory site improvements and amenities

Examples:

- Signage
- Parking and loading
- Fences and walls
- Building design standards
- Landscaping/screening
- Outdoor lighting
- Stormwater management

Sign Type	Height	Area	Other	Notes
Billboard	12'	1000 sq ft	None	Not permitted in residential zones
Sign on building	Varies	Varies	Varies	Subject to architectural review
Sign on utility pole	Varies	Varies	Varies	Subject to utility regulations
Sign on structure	Varies	Varies	Varies	Subject to structural requirements
Sign on ground	Varies	Varies	Varies	Subject to setback and lighting rules

Example of sign regulations conveyed in a table

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Nonconforming Uses and Lots



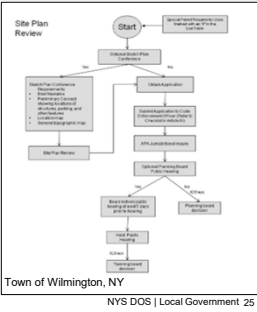
- Legally existed prior to current or proposed zoning
- Permitted to continue but not necessarily permanent
 - Abandonment (typically after 12 months)
 - Amortization (for minor investments i.e. signs)
- Use variance not needed to continue, but needed for expansion unless otherwise stated
- Existing lots of record – codes may allow some use of substandard lots without seeking relief if setbacks can be met

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Permitting Process

- Consider streamlining reviews to the extent possible
- Must include criteria for boards to base decisions on
- Clearly outline all steps in review process to assist Boards and applicants
 - Adirondack Park: Include evidence of JIF response from APA
 - Outline timing of coordination with other local approvals
 - Special use permits and Site Plan Review
 - Area variances associated with Site Plan Review



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PROCEDURES

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Who Will Draft Revisions?

- Governing board
- Planning board
- Appointed advisory board/committee
- Possible resources
 - County planners
 - Consultants
 - Municipal attorney



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SEQRA

- Zoning amendments are often Type 1 actions
 - Initial zoning local law or ordinance
 - Amendment affecting 25+ acres
- Type 1 Actions require Full Environmental Assessment Form or Generic Environmental Impact Statement
- Governing board is lead agency and makes “determination of significance”
 - Positive or negative declaration

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General Municipal Law § 239-m

No final action on zoning adoption until County Planning Agency makes recommendation on referral



Any amendment that changes district classification of, or regulations applying to, real property lying within 500' of certain areas, must be referred to County Planning Agency

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Draft Publication and Posting

- Towns and villages: copy, summary or abstract must be published at least once in official newspaper
 - Could be same legal notice for public hearing
 - File affidavit of publication with municipal clerk
- Recommend posting full draft on municipal website with paper copy available for review in municipal building
 - Village Law requires text and map be posted conspicuously by clerk's office

Town Law § 264
Village Law § 7-706

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Public Hearing

- Must be conducted by local governing board in towns and villages
- Notice must be published in newspaper at least 10 days prior in villages and towns; 5 days for cities
- Hold only after DGEIS is complete OR SEQR negative declaration is made
- Written notice of hearing when zoning change is **within 500 feet of a:** housing authority, municipal or county boundary, state park or parkway
- Ensure building is physically accessible to all wishing to participate and establish rules of order for the hearing

Cities: See public hearing options in General City Law §83

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Zoning Adoption

- Requires majority vote of fully constituted governing board
 - Unless acting contrary to County recommendation which requires supermajority
- Must be entered into legislative board's minutes
- Must file zoning map
- If GEIS exists, board must make written findings prior to adopting zoning regulations

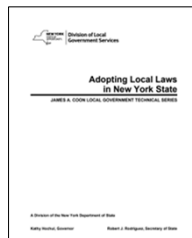
***No statute exists authorizing submission of first-time zoning or amendments to referendum**

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Effective Date

- Generally, 10 days after adoption, if adopted by ordinance
- Local laws effective upon filing at Department of State
 - Must file within 20 days of adoption
 - DOS Local Laws database: <https://locallaws.dos.ny.gov/>
- Personal service of law or amendment can make law effective as to the individual involved on date of service



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Citizen Protests



- Amendments subject to written protests:
 - Owners of 20% of land area included in proposed change
 - Owners of 20% of land area adjacent to land included in change (extending 100' out)
 - Owners of 20% of land area opposite land included in change (extending 100' out from street frontage of opposite land)

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Expect Revisions

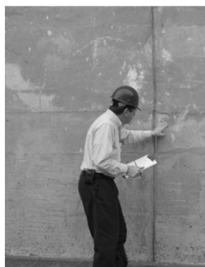
- Once new zoning is adopted and effective, expect to revise it as new regulations are applied in practice:
 - May need to be tweaked to address an unexpected scenario or offer a more or less stringent standard for specific use or category
 - For efficiency, collect revisions and amend and adopt as a group, not individually

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Zoning Is Only As Good As Your Ability To Enforce

- Authorize administrative professional to enforce local laws
 - Zoning/code enforcement officer
- Capacity, capacity, capacity
- Enforcement procedures
 - Letters of violation
 - Serving notice or issuing appearance tickets
- Adequate fines and penalties

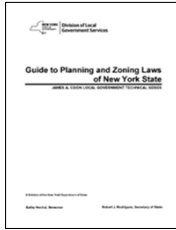


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Resources on NYS Laws and Regulations

- Guide to Planning and Zoning Laws in NYS: <https://dos.ny.gov/guide-planning-and-zoning-laws-new-york-state>
- NY DOS Local Laws Search: <https://locallaws.dos.ny.gov/>
- Questions for the Analysis and Evaluation of Existing Zoning Regulations: <https://dos.ny.gov/questions-analysis-zoning>
- Zoning and the Comprehensive Plan: <https://dos.ny.gov/zoning-and-comprehensive-plan>
- All DOS publications: <https://dos.ny.gov/publications>



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Planning and Zoning Funding

- NYS DOS planning and zoning funding opportunities:
 - Smart Growth Grants, CFA
 - Local Waterfront Revitalization Program (LWRP), CFA
 - Local Government Efficiency (LGE) – Shared Services
- NYS DEC Climate Smart Communities Grants
- NYS AG MKTS Farmland Protection Planning Grants



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Department of State
Local Government

**Division of Local
Government Services**

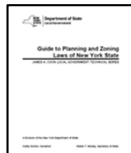
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localgov@dos.ny.gov

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