



**Division of Local  
Government Services**

# Revising Zoning

**A Division of the New York Department of State**

# Outline

- Zoning 101
- Trends
- When to amend
- Contents of zoning regulations
- Procedures



# 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

**67% of NYS Local Governments have Comprehensive Plans**

94% of Cities  
70% of Villages  
60% of Towns

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

# Comprehensive Plan – Considerations

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



# 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

**78% of NYS  
Local  
Governments  
have Zoning**

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

# 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



# 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





# 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





# When to Amend

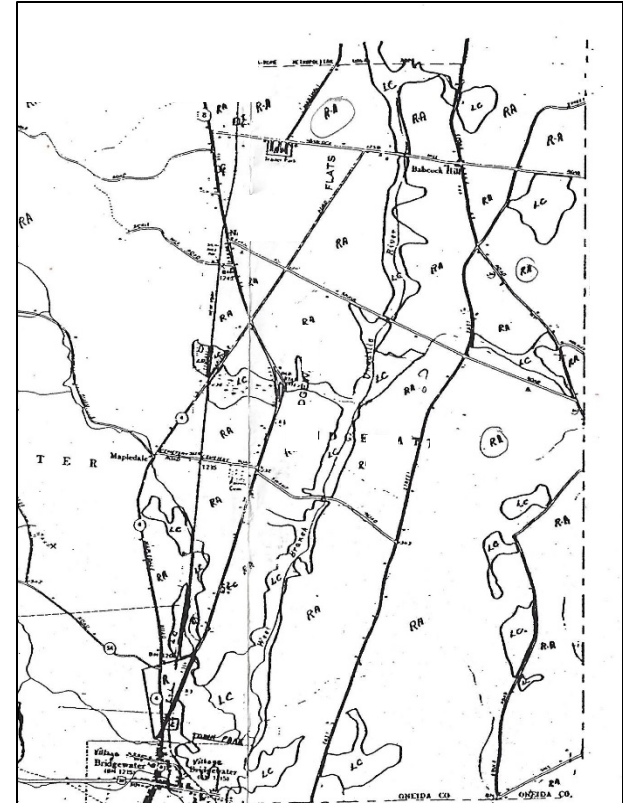
# Signs that it's time to update your zoning

- You updated your Comprehensive Plan and Goals changed significantly
- New technologies or uses are 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



# Signs that it's time to update your zoning

- Can't locate 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

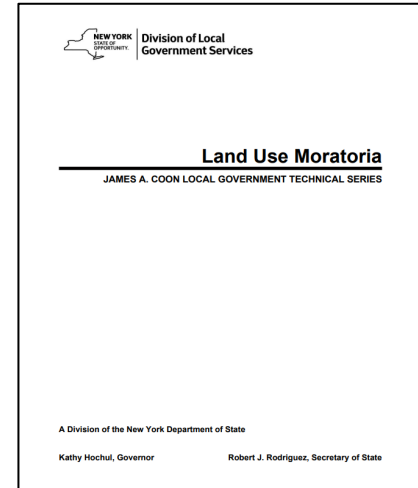


# Adopting moratoria

Avoid establishing unwanted uses in some or all zoning districts



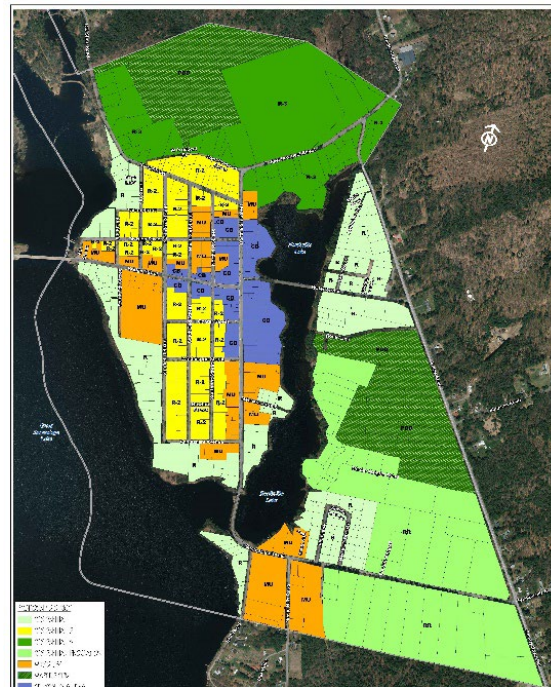
- May be enacted to gather information to adopt new regulations
- Development that might occur without moratorium could undermine value of regulations in progress
- Should be for fixed time period with specified end date, no longer than reasonably necessary to adequately address issues



# Zoning Contents

# 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



# General text provisions all codes should have

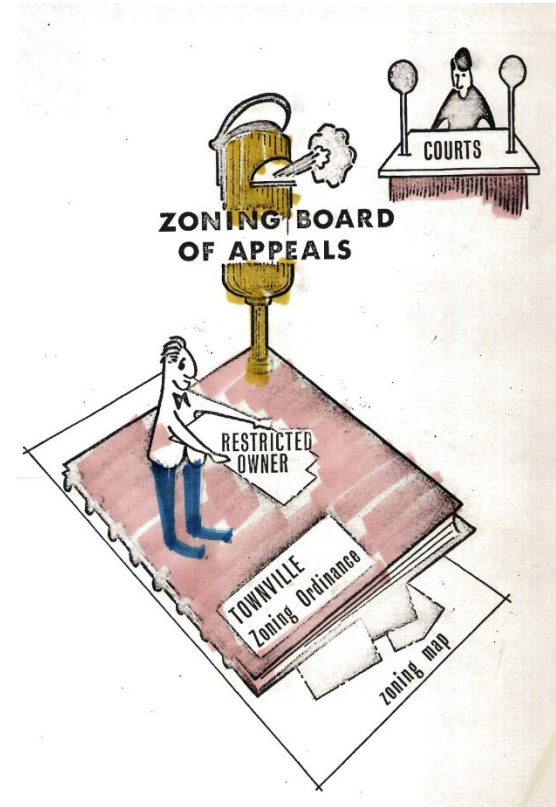
- Statutory source of power and intent – **reference Comprehensive Plan**
- Definitions
- Reference official zoning map and establishment of districts
- Relationship to other regulations
  - NYS Uniform Fire Prevention & Building Code
  - Site plan or subdivision review (easier to administer when combined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





# Zoning requires a safety valve

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

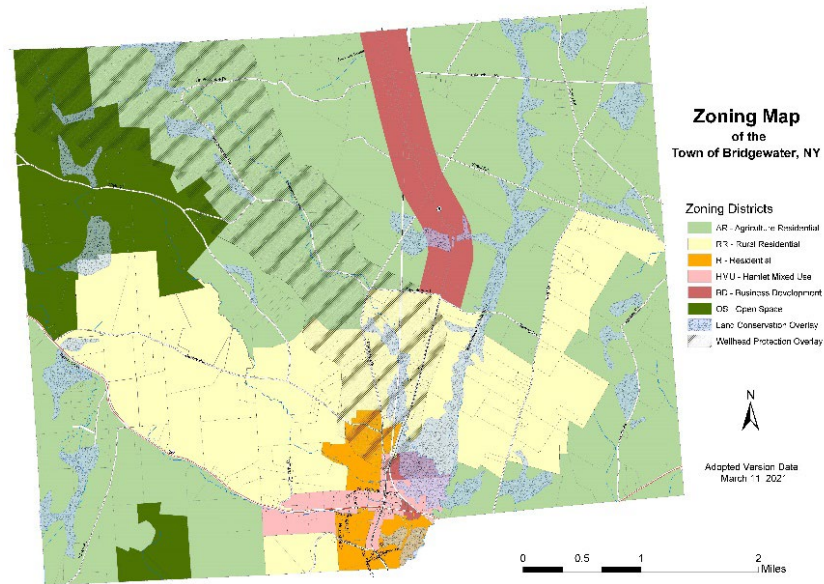
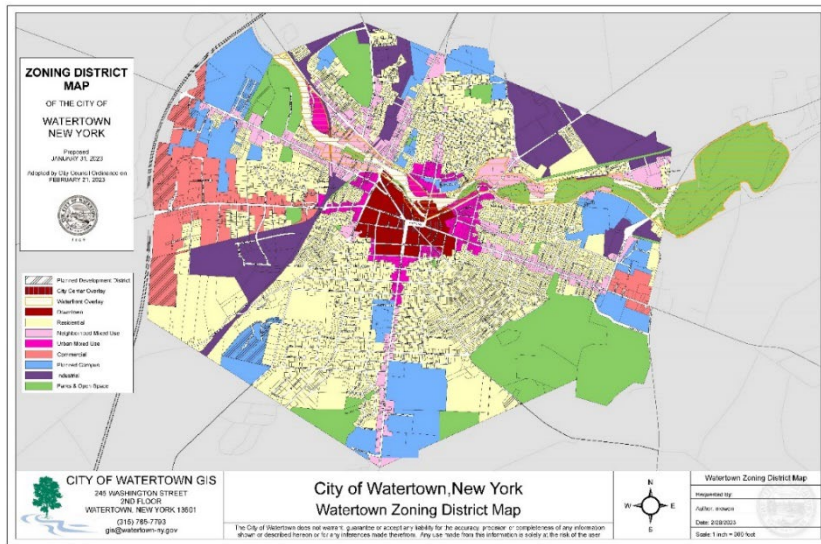


# Updating zoning districts and maps

## Things to consider:

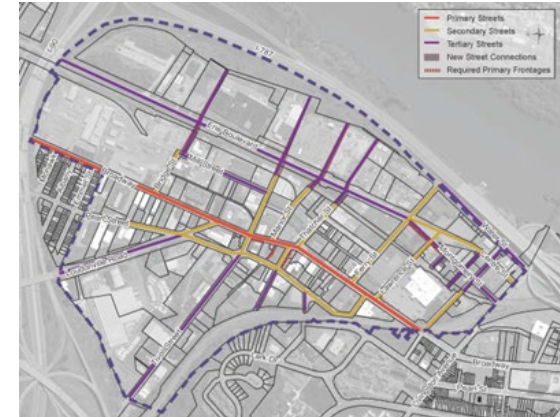
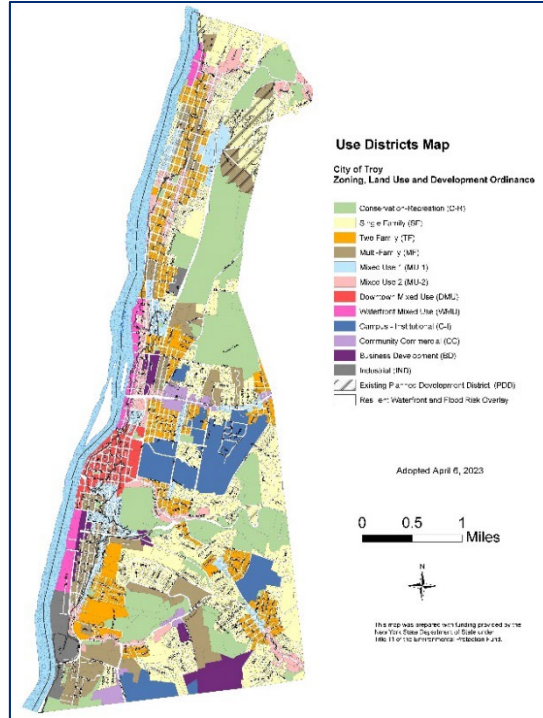
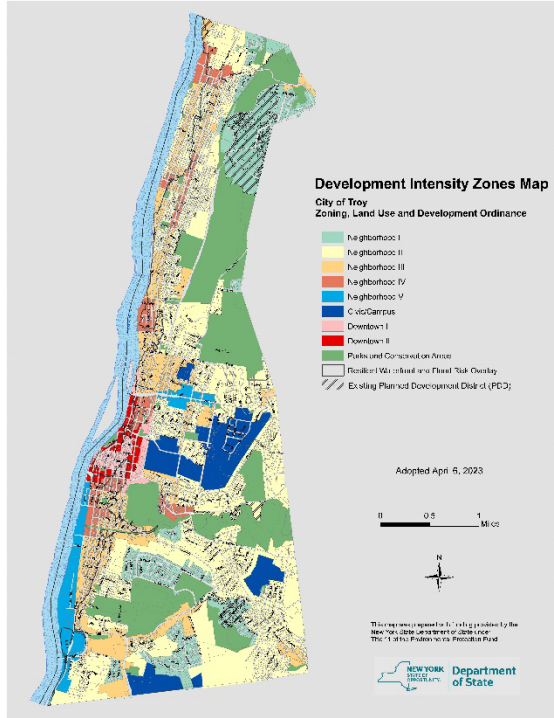
- Do districts reflect supported mixes of uses/densities in the comprehensive plan?
- Are purpose statements for each district clearly defined?
- Do minor distinctions between zones call for consolidation?
- How do districts relate to current transportation, sewer/water infrastructure, natural boundaries, character/design changes?
- Are there adequate transition zones?
- What has been the effect of corridor strip zoning if any?

# Updating zoning districts and maps



No one size fits all!

# Updating zoning districts and maps





# 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
<b>RESIDENTIAL USES</b>							
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		§170-32
Dwelling, temporary rental	P	P	P	P	P	P	
Dwelling units above first floor commercial					P	P	
Dwellings, existing at the time of Chapter adoption	P	P	P	P	P	P	
Live-Work Space			P	P	P	P <sup>1</sup>	
Manufactured homes, individual				P			§170-28
Residential care facility			SU	SU	SU		
Senior housing			SU	SU	SU		
Townhouses	SU			SU			
<b>COMMUNITY USES</b>							
Cemetery	P				P		
Club, membership and lodge					P		
Community center	SU				P		

# Additional use regulations

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

## Examples:

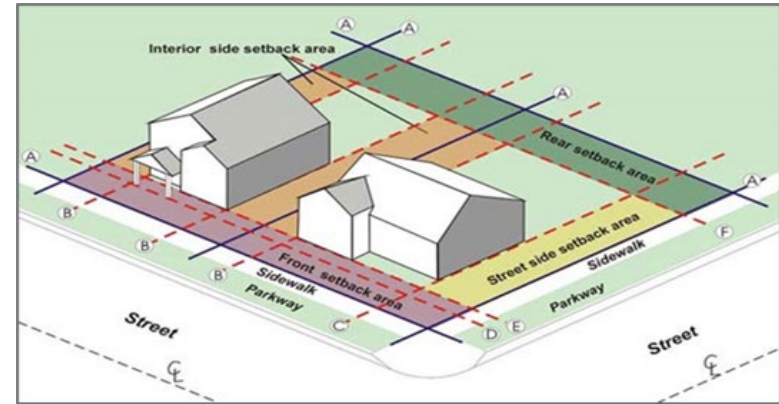
- Accessory dwelling units
- Adult uses
- Short term rentals
- Home occupations
- Drive through facilities
- Renewable energy facilities
- Manufactured housing parks
- Kennels
- Gas stations
- Campgrounds

# 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

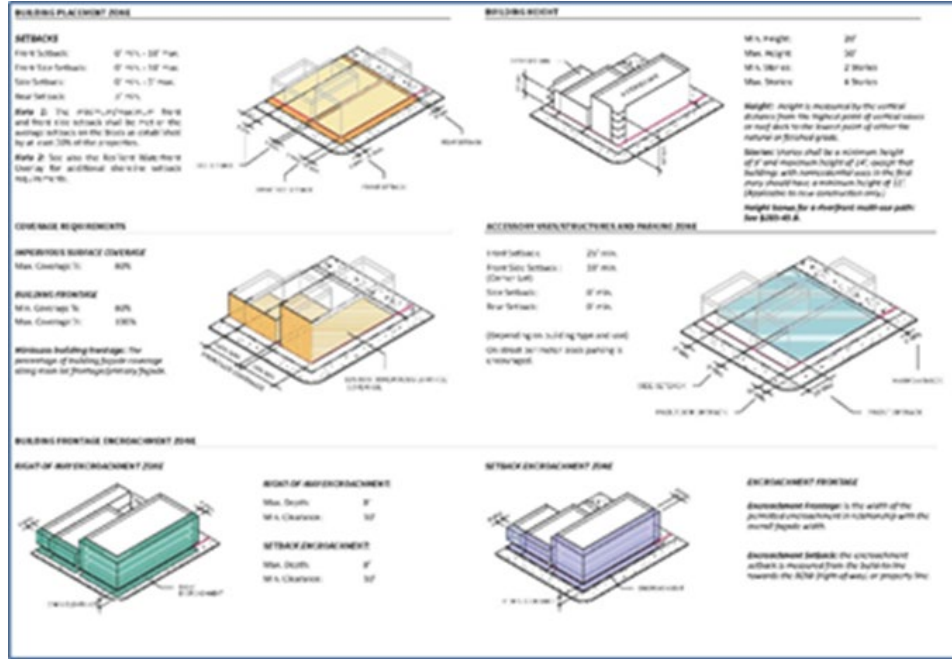
## Things to consider:

- Method of measurement
- Tools for flexibility

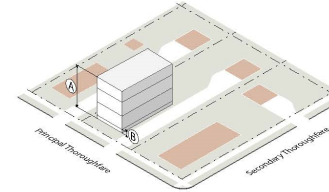




# Dimensional / form requirements



## E. Height



### Building Height

A	Building height (max)	3 stories, 40'
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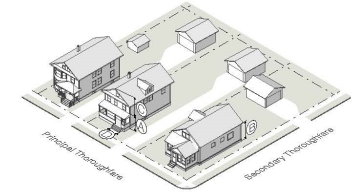
### Story Height

B	Finished ground floor level (min/max)	0/4'
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### Supplemental Standards

1. See Section 3.2.1.G for height limit exceptions which apply along specified sections of Delaware Avenue, Gates Circle, and North Street in the N-2R zone, and along specified sections of Delaware Avenue, Main Street, and Niagara Street in the N-2E zone.

## F. Activation



### Transparency

A	Ground floor transparency, front facade (min)	20%
B	Ground floor transparency, corner side facade (min)	20%
C	Upper floor transparency, front and corner side facades (min)	20%

### Pedestrian Access

D	Main entrance location (required)	Front, interior side, or corner side facade
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# Dimensional requirements

Zoning District	Minimum Lot Area (SF = square feet)	Maximum Impervious Surface	Minimum Lot Width	Principal Use Required Yard Setbacks			Building Height (minimum/maximum)
				Front <sup>1</sup> (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 of adjacent lots <sup>2</sup>	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 <sup>2</sup>	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 <sup>2</sup>	5 feet one side/15 feet total of both sides	30 feet	2 story minimum/3.5 stories or 40 feet maximum

# Supplemental regulations

## Examples:

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

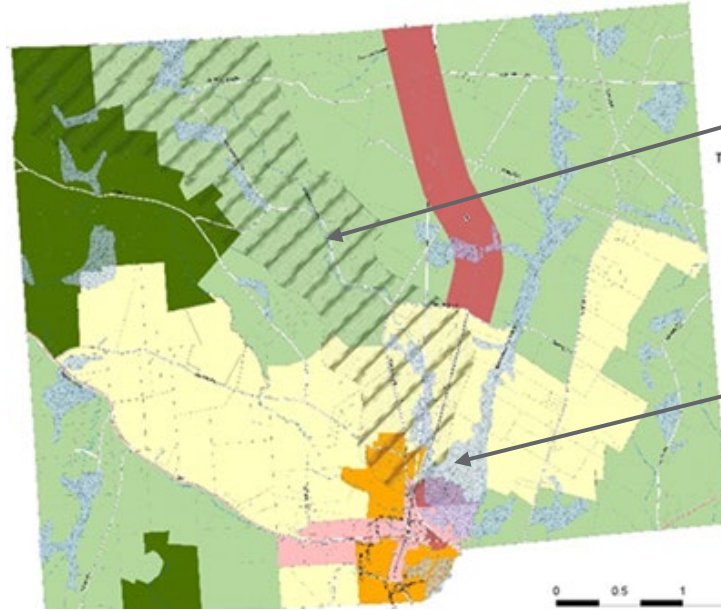
	Sign Type	Area/ Height	RI/ RM	NMU	UMU	CBD	II/12	LC
			Permitted: See temporary sign section.					
Temporary wall		Area (square feet)	X	40	60	90	X	
		Height (feet)	X	15	20	25	X	
Awning/ canopy		Area (square feet)	X	15	40	80	X	
		Height (feet)	X	12	12	15	X	
Freestanding		Area (square feet)	X	60	60	60	120	X
		Height (feet)	X	15	25	20	25	X
Projecting		Area (square feet)	X	15				X
		Height	X					X
Rooftop		Area	X	X	X	See below.		X
		Height	X	X	X	See below.		
Sidewalk		Area (square feet)	X	6				X
		Height (feet)	X	5				X
Multitenant		Area (square feet)	X	80			90	X
		Height (feet)	X	20			25	X
Window		Area	X	25% of total glass area of the window on which the sign is displayed				X
		Height	X					

*Example of sign regulations conveyed in a table.*

# Overlay / special use districts

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

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



Aquifer protection overlay

Conservation overlay on river corridor

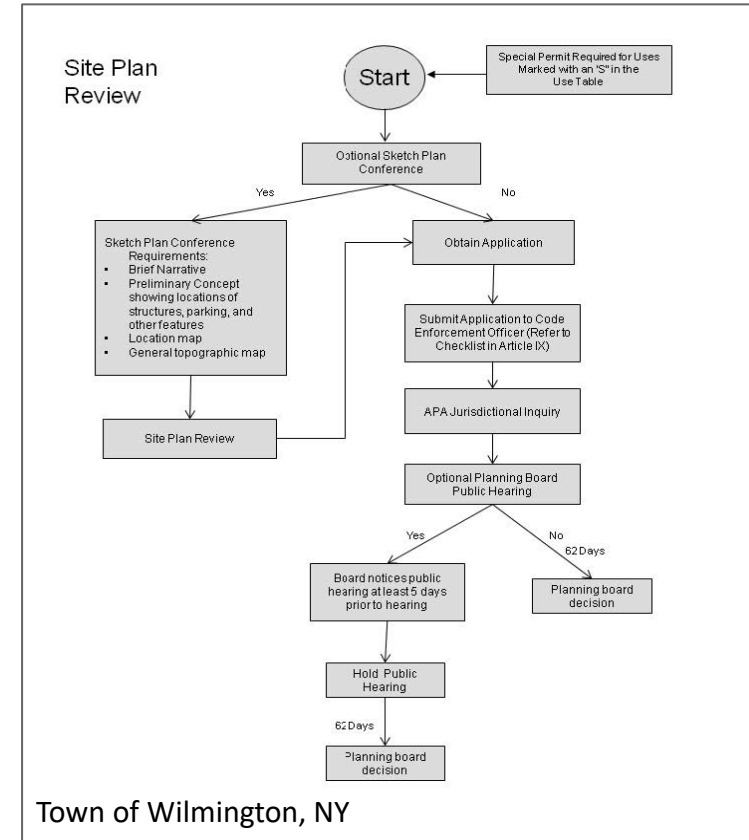
# Nonconforming uses and lots



- **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

# Permitting process

- Consider streamlining reviews to the extent possible
- Include criteria for boards to base decisions on
- Clearly outline all steps in review process to assist Boards and applicants
  - Outline timing of coordination with other local approvals
    - Special use permits & Site Plan Review
    - Area variances associated with Site Plan Review



# Procedures



# Who will draft revisions?

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



# Community Engagement

- Especially important with extensive updates
- Ideas:
  - Zoning 101 presentation early
  - Presentations summarizing drafts
  - Open houses for 1 on 1 conversations
- Required public hearing on draft(s) conducted by governing board



# 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

## Generic Environmental Impact Statement (GEIS)

- Potential to reduce SEQRA process for specific actions
- Encourages thorough analysis of proposed changes



# 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

# Draft Publication and posting

- 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 draft on municipal website with paper copy available for review in municipal building

Town Law § 264  
Village Law § 7-706



# Governing board public hearing

- Notice must be published in newspaper at least 5 days prior in towns and cities; 10 days prior in villages
- 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



# Zoning adoption

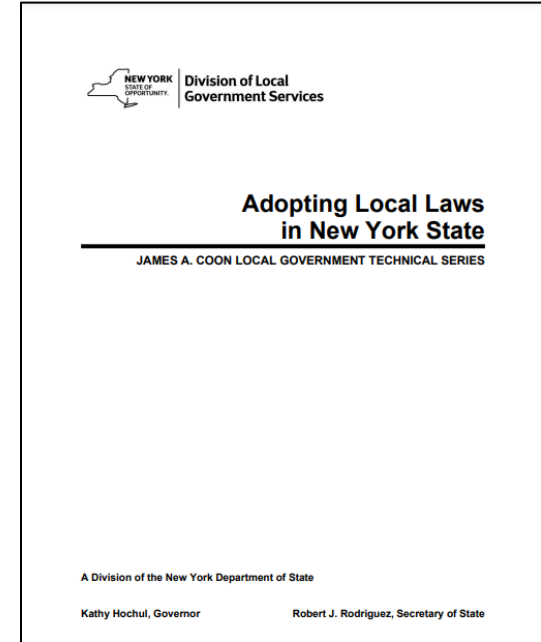
- Requires majority vote of fully constituted governing board
  - unless acting contrary to County recommendation which requires supermajority
- Must be entered into legislative board's minutes
- Must file zoning map
- If GEIS exists, board must make written findings prior to adopting zoning regulations

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



# Effective date

- Generally, 10 days after adoption, if adopted by ordinance
- Local laws effective upon filing at Department of State
  - 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



# 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)

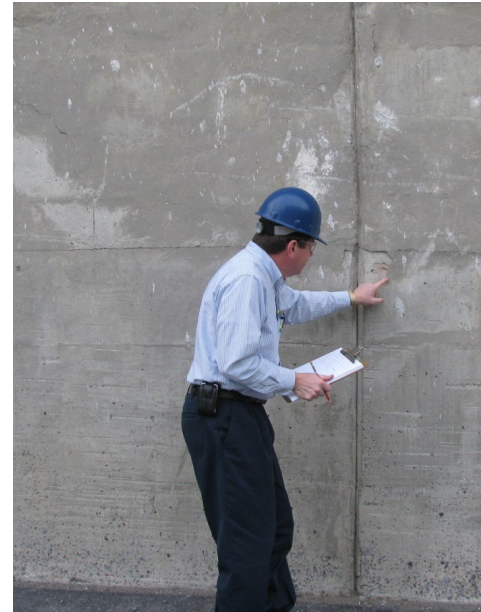


# Expect revisions

- 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

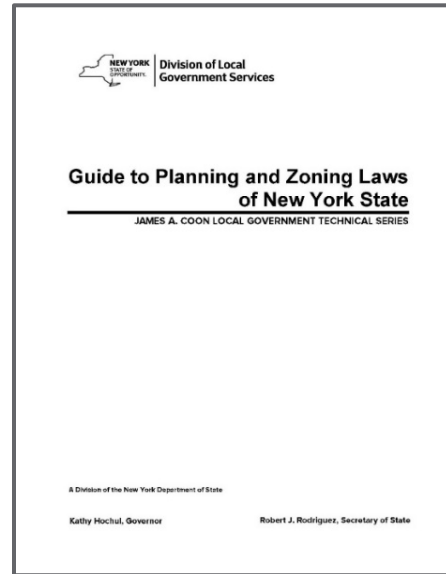
# Zoning is only as good as your ability to enforce

- 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



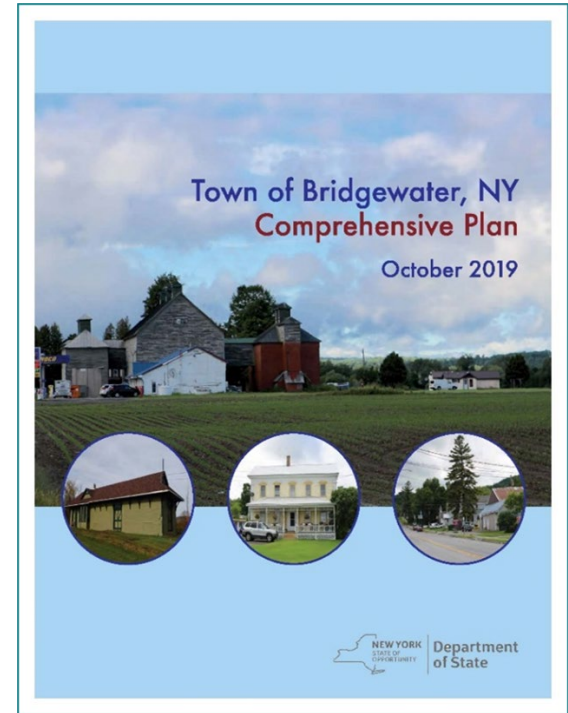
# Resources on NYS laws & regulations

- 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>



# 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



# New York Department of State

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<https://dos.ny.gov/training-assistance>