



Rural Planning

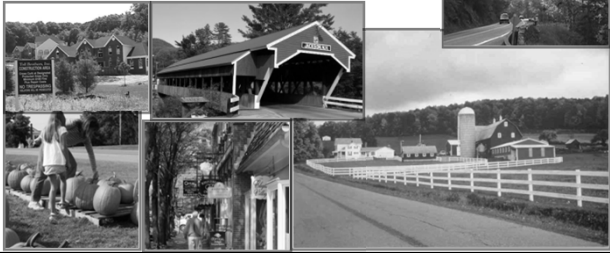
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How do you define rural?

Farms, forest, sparsely settled areas



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Rural Issues in New York State

- Rural counties are losing population
- Rural populations are aging at a faster rate
- Homeownership is higher in rural areas, but vacancy rates tend to be higher
- Rural counties have a shrinking labor force and lower labor force participation



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Agricultural Impact

Northeast land base under greatest threat

NYS Farmland regions among the 20 most threatened:

- Hudson Valley
- Finger Lakes
- Lake Ontario
- Long Island

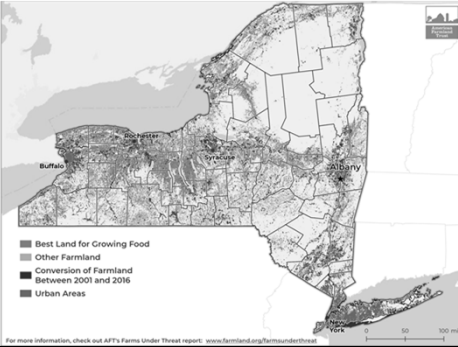


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New York's Conversion of Agricultural Land (2001-2016)

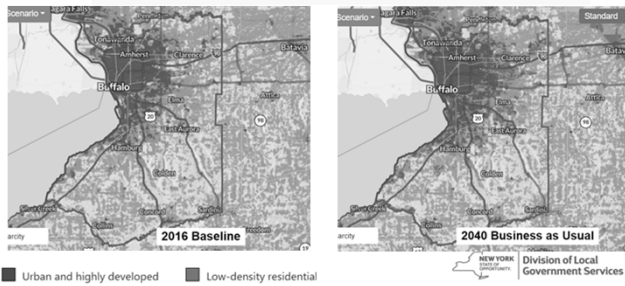
- 56,300 acres (22%) converted to urban and highly developed land use
- 197,200 acres (78%) converted to low-density residential (LDR) land use
- 253,500 acres in total

54% of NY's agricultural land (4,923,800 acres) is "nationally significant" yet 128,300 of these acres were converted.

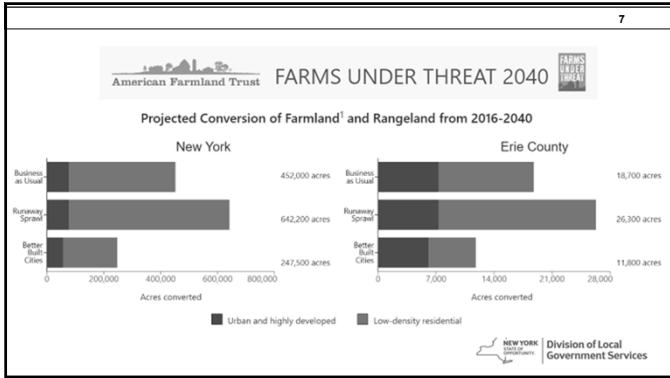


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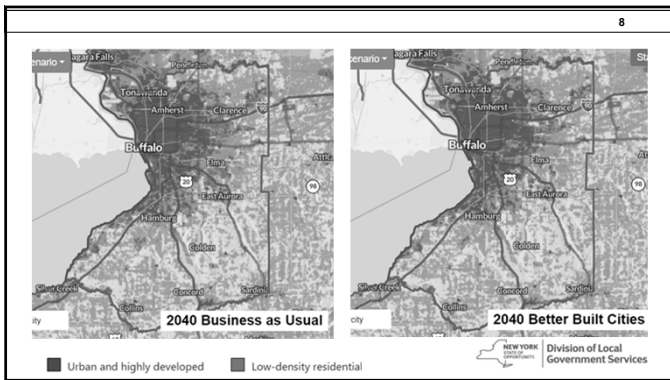
FARMS UNDER THREAT 2040



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Without planning	With planning
<p>Reactive</p> <ul style="list-style-type: none"> • Planning by crisis • Conflict • Loss of rural character • Wasteful sprawl <ul style="list-style-type: none"> – Land – Public expenditures • Undesirable development 	<p>Proactive</p> <ul style="list-style-type: none"> • Desirable development • Cost-efficient growth <ul style="list-style-type: none"> – Keep pace with development • Preserve community identity • Balance community & individual interests

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What is a Comprehensive Plan?

- Expression of goals
- Outline for orderly growth
 - Land use regulation
 - Direct development
- Provides a legal defense for land use regulations

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



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Comprehensive Plan, continued

- Improve chances for grants & loans
 - “Welcoming environment for economic growth
- Informs budgeting process
- Better planning for:
 - Efficient provision of public goods & services
 - Capital improvements
 - Infrastructure



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When to Update Your Plan

- Some indicators:**
- Age of plan
 - Periodic review provision
 - Rapid growth or decline
 - New infrastructure needed or established
 - Community character at risk
 - Special places disappearing
 - Significant environmental or economic changes



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Agricultural & Farmland Protection Plans

- Augment existing Comprehensive Plan
- First phase of a new plan
 - Elements include:
 - Location of proposed areas to be protected
 - Value to the agricultural economy
 - Open space value
 - Strategies for continued agricultural use
 - Level of farmland conversion pressure

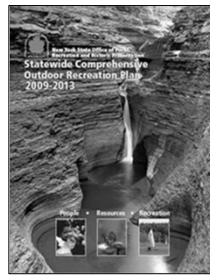


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Open Space Planning

Coordinate with the other plans of neighboring municipalities, the county, region or state:

- Comprehensive Plans
- Agricultural & Farmland Protection Plans
- Open Space Plans
- Recreation Plans
 - State Open Space Conservation Plan
 - Statewide Comprehensive Outdoor Recreation Plan (SCORP)
- Carbon sequestration



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Advisory Committees

- Assist with Comprehensive Planning
- Serve as resource for local boards
- Agricultural Advisory Committees (AAC)
 - Act as liaison for the agricultural community
 - Establish & administer PDR program
 - Agricultural District reviews (County AFPB)
- Conservation Advisory Councils (CAC)
 - Open space inventory & maps
 - Conservation Board

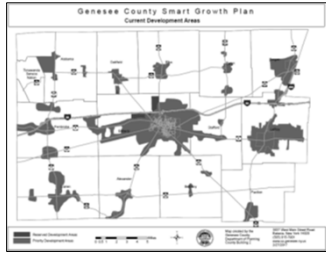
GML §239x-y



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Sewer & Water

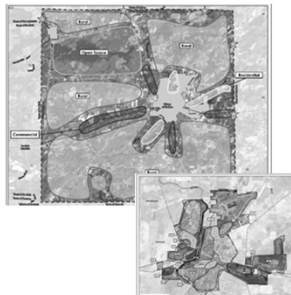
- Direct to targeted growth areas
- Not just anywhere on demand
- Reduce sewer connection fees in growth areas to incentivize development



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Town & Village Intermunicipal Cooperation

- Common goals and efficiencies
- Land use regulations complement one another; targeting growth appropriately
- Shared capacity and resources
 - Joint Comprehensive Plans
 - Joint Planning and Zoning Boards
 - Joint Task forces and committees



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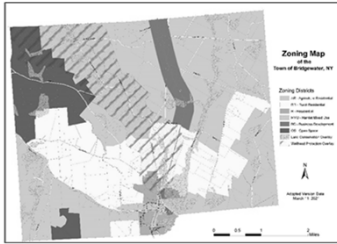
Rural Land Regulation



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Zoning

- Regulates use, density, and placement of structures on a parcel
- Each district has a list of as of right and special uses and bulk and area regulations
- Original intent: To separate incompatible uses to protect public health, safety, and welfare



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Simple Zoning

- Hamlets:
 - Mixed use
 - Residential
 - Business
- Agricultural
- Rural residential
- Mixed use
- Commercial
- Industrial



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Rural / Ag-Friendly Zones

- Agricultural uses
 - Value-added ag tourism
 - Off-site Farm Stands
 - Wineries/farm brews
 - Personal accessory ag/ hobby farms
- Ag-compatible nonresidential uses
 - Veterinarians
 - Cottage Industries
 - Garden Centers
 - Farm equipment repair and retail
- Low density residential



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Adaptive Reuse and Zoning

- Permit more uses within existing structures for adaptive reuse than might be allowed for new construction
 - As of right or with a Special Use Permit and Site Plan Review
 - Special Use Permit and Site Plan Review process allows for evaluation of impacts to mitigate potential impacts associated with more intense uses
 - Might include requirement that architectural features of exterior be maintained
- Examples:
 - Multi-family housing; live/work
 - Mixed-use
 - Maker space, light industry



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Agricultural Districts Law

- Local land use controls may not unreasonably restrict farm operations within a NYS Ag District
- Coordinated review of local projects adjacent to farm operations with farmers and county – GML § 239-m



Agricultural Districts Law –
Article 25 AA

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Subdivision Review

- Lot sizes
 - Fragmentation
 - “Death by 1,000 cuts”
- Conflicts with agricultural uses
 - Farmland conversion
- Infrastructure costs
- Connectivity



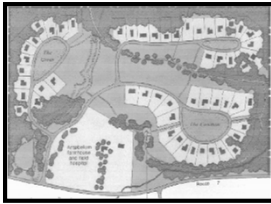
Town Law §276 & §277
Village Law §7-728 & §7-277
City Law §32 & §33



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Cluster Subdivision

- Local governing board may permit or require planning board review of cluster subdivision
- Zoning identifies districts where allowed
- Same number of units as underlying zoning allows
- Additional lots may be incentivized for community benefits:
 - Ag lands, open space, recreation etc.



- Village Law §7-738
- Town Law §278
- General City Law §37

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Clustering Benefits

- More efficient use of land reduces street and utility length and cost of maintenance
- Increases & protects open space, which should be protected by conservation easements
- Open space often increases value of nearby properties



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Conservation Subdivision

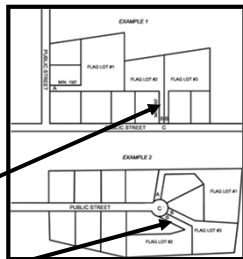
How to Create Conservation Subdivisions

<p>Step 1 Require a map of the open space system for the parcel and surrounding area.</p>	<p>Step 2 Conventional sketch layout determines maximum lot count under existing three-acre zoning.</p>	<p>Step 3 The same number of houses can fit in to the landscape while preserving 80 percent of the open space.</p>
<p>Locate Development Pocket</p>	<p>Typical Superimposed Subdivision</p>	<p>Conservation Subdivision</p>

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Flag Lot Development

- Flag Lot: large parcel served by minimum road frontage
- More and more common as existing road frontage is developed
 - at least 15 feet Town Law §280-a (5)
 - if not addressed in zoning, area variance often required for frontage/lot width



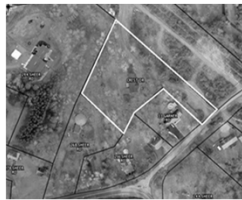
- Characterized by:
- Narrow frontage
 - Long strip connecting rear property

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Flag Lot Development

Addressing in Zoning :

- Reduced minimum frontage
- Require the "flag" (buildable area) to meet minimum lot size
- Create buffer between lots setting the building setback to be the front setback *measured from the rear property line of the front lot*
- Require vegetative screening in the front yard of back lot; along driveway



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Conservation Easements



Saratoga County Farm protected by a conservation easement

- A voluntary agreement restricting development in perpetuity
- Held by a land trust, public agency or municipality
- Provides tax benefits for the landowner

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Liability Protection for Landowners

- Protects **private** landowners who open their land to recreational use

General Obligations Law
§ 9-103



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Housing

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Rural Housing Issues


- Single-family residences represent the largest housing type in rural communities
- Homeownership rates are much higher in rural communities
- Older homeowners may have trouble aging in place
 - Accessibility and maintenance issues



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Accessory Dwelling Units (ADU)



- Allowed as of right, or by special use permit
 - SUP: can address design, density, and health and safety issues
- Cost-effective affordable rental housing
- Older persons can stay in neighborhood
- Common in larger, older houses, in existence for many years

ADU: second residential unit contained in single family home or garage; aka "in-law apartment"



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Senior Housing Needs

- Building affordable housing for seniors is generally less controversial
- Providing that housing can be difficult because many seniors live on fixed incomes
- Difficult for some senior homeowners to age in place
 - Rising tax burdens
 - Energy costs
 - Accessibility modifications to remain safe
 - Routine maintenance & repairs
- Aging population demographics; demand for affordable senior housing is higher than supply available






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Senior Housing Adaptive Reuse

Formerly: Willsboro Central School, Willsboro, Essex Co
Today: Champlain Valley Senior Community

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Zoning for Senior Housing

District or Zone

- Diversity of age restricted housing permitted in zoning districts
- Retirement Community District permitting residential and other compatible uses
- Planned development district/ planned unit development

Means of Implementation

- Overlay district
- Floating Zone
- Dedicated Zone



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Manufactured Housing

Levels of Regulation:

Federal

- Construction and Safety

State

- Installation Standards
- Uniform Code
- Manufacturer's Manual
- Sanitary Code Part 17

Local

- Location, lot size, setback
- Home site development

- Freestanding, permanent chassis
- 20-30% less expensive than site-built homes
- Privacy and amenities associated with home ownership



Across-the-board exclusion from municipality prohibited (*Town of Pompey v. Parker*)

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Manufactured Housing Laws

N.Y. Executive Law, Article 21-B, Title 2, § 616, § 617, effective November 20, 2015

- A manufactured home that is affixed to a permanent foundation and conforms with the identical development specification and standards, including general aesthetic and architectural standards, applicable to conventional, site-built single-family dwellings in the residential district in which the manufactured home is to be sited, **shall be deemed to be a conforming single-family dwelling** for purposes of the applicable local zoning law or ordinance

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Manufactured Home Parks

- What can local governments regulate:
 - Location
 - Lot size
 - Setbacks
 - Vehicle parking, etc
 - Water/septic/sewer issues
- Can require site plan review
- Should be reviewed the same way as any other single-family housing development



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Farm Worker Housing

- Agriculture & Markets Law § 25-AA
 - State Certified Agricultural Districts
- Address in zoning or adopt local law
 - Show proof of continuing employment on the farm
 - Do not allow the creation of new lots
 - Do not allow permanent additions to the home

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Shed “Dwellings”

- Pre-assembled, low-cost structure converted to tiny homes or permanent additions often without permits
 - Does not meet NYS Uniform Fire Prevention and Building Code
 - Not a “dwelling”
 - Define and distinguish shed, tiny home, accessory structure
- Tiny home is 400 sf or less “dwelling”; must meet emergency escape/rescue openings per Residential Code Appendix Q



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Recreational Vehicles as Residences

- RVs do not meet manufacturing requirements for permanent occupancy as detailed in the NYS Uniform Fire Prevention and Building Code;
- RVs are not capable of being well-heated in the winter months and do not meet the NYS Energy Conservation Construction Code



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Regulating Recreational Vehicles

Regulations may include:

- Definition and examples
- Storage regulations
- Limits on # of allowed RVs
- Registration requirements
- Flood area regulations
- General prohibitions
- Enforcement & penalties

Storage regulations include:

- Enclosure and/or screening requirements
- Limits on parking location, time and number stored (i.e., districts, street vs. yard vs. driveway, setbacks, & # of calendar days)
- Position on residential use
- Prohibitions on storage

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Village of Hamburg, Erie County

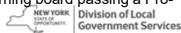
- Trailers, campers, boats, snowmobiles and other recreation vehicles must be stored in a rear yard of residential property or in an enclosed garage
- Storage is defined as a period longer than 120 hours
- A trailer, camper or mobile home so stored **shall not be used as living quarters** and shall not be connected to any sewer and water utilities



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New York Pro-Housing Community Program

- Localities that achieve "Pro-Housing Communities" designation receive priority in certain funding programs including
 - Downtown Revitalization Initiative (DRI), NY Forward, Regional Council Capital Fund, Capital projects from Market New York, New York Main Street program, Long Island Investment Fund, Mid-Hudson Momentum Fund and the Public Transportation Modernization Enhancement Program
- Send a letter of intent to prohousing@hcr.ny.gov
- Templates provided on the program page: <https://hcr.ny.gov/pro-housing-community-program>
- Municipalities must share permitting documentation that you have approved either:
 - Permits increasing their housing stock by 1% (downstate) or 0.33% (upstate) over the past year OR
 - Permits increasing their housing stock by 3% (downstate) or 1% (upstate) over the past 3 years
- If you haven't achieved these targets, you can still be certified as a Pro-Housing Community by submitting your data and the municipal governing board passing a Pro-Housing Resolution



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Rural Economic Development



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Home Occupations

Must be wholly within primary structure, not exceeding 15% floor area

- No more than 1 person not residing there may be employed
- Inventory/supplies not to occupy more than 50% of permitted area
- May not involve any hazardous operation



NYS Residential Building Code AJ102.5



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Barn "Promotional" Events



May be protected as part of a farm operation if:

1. Directly relate to sale/ promotion of beverage produced on farm (at least 51% on-farm produced grain, hops, grapes/fruit/juice);
2. Incidental and subordinate to retail sale of beverage on-site;
3. Hosted by farm or farm customers (not outside, unrelated parties); and
4. Feature beverage produced at the farm

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Farm Wineries/Distilleries in State Ag District

Although State Liquor Authority license may allow sale of alcoholic beverages not made from crops grown by farm, they are not part of a farm operation

Production and sale not necessarily protected under AML Article 25AA § 305-a



State Alcoholic Beverage Control Laws define:

- Farm cidery,
- Farm distillery,
- Farm winery, and
- Farm brewery

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Barn Events Without Ag District Protection

- If barn is not in State Ag District or barn rental revenue exceeds that of food production, municipalities can restrict:
 - Hours of operation
 - Number of events per month
 - Prohibit regular rentals of farm buildings for weddings



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A Partnership to Review Impacts

Agriculture & Markets

- Farm operation?
- In an agricultural district?
- Zoning definitions
- Is activity permitted?
- Is variance needed?
- Cost and time, etc.

Municipal Regulations

- Reasonable
- Public health & safety threatened
- Amendments needed
- Is an expedited review an option?



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Municipal Authority to Regulate Mining

- Municipal Home Rule Law §10
- Statutes of Local Governments §10
 - The basic police power
 - Grants of Powers to Local Governments
- Zoning & planning enabling statutes
 - General City §20(24 &25), Articles 3 & 5-A
 - Town Law Article 16
 - Village Law Article 7

As limited by NY ECL §23-2703(2)

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Municipal Authority to Regulate Mining

- Prohibit mines completely
- Allow in specific zones
- Require Special Use Permit or Site Plan Review
- Condition the SUP approval:
 - Ingress & egress
 - Truck routes



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DEC Permit Process

- Towns may submit recommendations to NYS Department of Environmental Conservation about:
 - Setbacks from
 - Property boundaries
 - Public R-O-W
 - Control of dust
 - Hours of operation
 - Barriers restricting access
 - DEC can consider local recommendations in granting permit



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Small Mines

- Local communities may fully regulate small mines
- Small mines are important to rural economies
- Many farms need small mines to be viable

Less than 1,000 tons or 750 cubic yards within 12 consecutive months



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NY's Forests

- 61% of NYS is forested (more than any state in Northeast)
- Most is privately owned (farmers and non-corporate entities own largest share)
- Top 10 NYS manufacturing industry



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Local Regulation of Timber Harvesting

Set standards for logging activities to:

- Protect water quality
 - Stabilize stream banks
 - *Retain root system*
- Prevent damage to public roads
 - Restrict roads to seasonal use



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Right-to-Practice Forestry

- Intent is similar to Agriculture & Markets Law's Right-to-Farm protections
 - To prevent municipalities from overly restricting forestry activities
- Towns voluntarily submit local regulations for review by DEC
 - Landowners can petition for a DEC review of local regulations



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Solar

- Uncontroversial when small scale
- Conflicts when proposed for prime farmland
- Plan for solar on marginal land



Tier I: Roof-mounted or building-integrated solar energy systems

Tier II: Ground-Mounted systems that generate up to 110% of electricity consumed on site over previous 12 months

Tier III: Solar as primary use; Projects less than 20 MW reviewed locally. Projects more than 25 MW reviewed by Office of Renewable Energy Siting (ORES)

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Climate Leadership and Community Protection Act (CLCPA)

Reduce greenhouse gas (GHG) emissions:

- 40% reduction by 2030
- Zero emissions from electricity by 2040

Increase renewable sources to 70% by 2030

- Develop or support:
 - 6000 MW of solar by 2025; and
 - 3000 MW of energy storage capacity by 2030
 - 9000 MW of offshore wind by 2035;



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Accelerated Renewable Energy Growth and Community Benefit Act

- To achieve the CLCPA targets in a timely manner, the Accelerated Renewable Energy Growth and Community Benefit Act was passed in April 2020
- Construction and creation of renewable energy facilities
 - Establishes a streamlined and uniform permitting process under a new Office of Renewable Energy Siting (ORES) which is placed within the NYS Department of State (Executive Law § 94-c)

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ORES Responsibilities and Timeline

- ORES, through its executive director, shall accept applications, evaluate, and issue siting permits for renewable projects
- ORES is comprised of legal, environmental, and energy professionals
- It established Uniform Standards and Conditions for siting, designing, engineering each class and category of renewable energy facilities
- Implements Executive Law § 94-c
- Processing of new applications by ORES under § 94-c should be completed within one year of its completeness determination

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Major Renewable Energy Projects: Who Conducts Reviews?

Qualifying Renewable Energy Projects:

- New Projects 25 MW or more: § 94-c
- Projects under 20 MW: Local review
- Projects between 20 MW to 24.9 MW: May opt in § 94-c or local review
- Current Article 10 Projects: § 94-c or Article 10

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Agricultural and Environmental Areas

- Prohibit or avoid installation:
 - Farmland, prime or unique soils, soils of statewide/local significance
 - Wetlands, floodplains, under most circumstances
 - Critical Environmental Areas

NYS Department of Agriculture and Markets:
 "Guidelines for Agricultural Mitigation for Solar Energy Projects"
https://agriculture.ny.gov/system/files/documents/2019/10/solar_energy_guidelines.pdf

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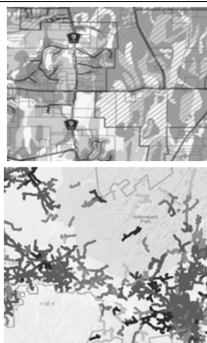
Hosting Capacity

Not every location is feasible for renewable energy development

- Access to transmission lines is critical
- Steep slopes must be avoided
- Other sensitive areas should be avoided
- When transmission lines are close to prime farmland: mitigation

Links to maps:

<https://jointutilitiesofny.org/utility-specific-pages/hosting-capacity>



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Main Street Revitalization

- Comprehensive plans can support downtown/Main Street/hamlet redevelopment
- Can help create jobs, spark small business creation, increase property values, attract tourists, enhance civic pride
- Reduce sprawl by limiting commercial zoning outside developed areas



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NYS Main Street Program

- Grant designed to strengthen traditional Main Streets
- Funding for targeted commercial and residential improvements including:
 - Supporting downtown anchor projects
 - Façade and building renovations
 - Interior commercial/residential building upgrades
 - Streetscape improvements

<https://hcr.ny.gov/new-york-main-street>



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Hamlet Enhancements and Revitalization

Revitalization tools:

- Flexible standards for infill lot redevelopment
- Flexibility for adaptive reuse of structures
- Character preservation
 - façade programs; gateways
- Walkability – many rural hamlets are on major transportation routes
- Small/micro business support



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Downtown Revitalization Initiative (DRI)

- Locally-driven plans produced with the support of state agencies and consulting teams hired by NYS
- Agencies include:
 - Department of State
 - Homes and Community Renewal
 - Empire State Development
- To date:
 - 6 rounds
 - 60 DRI communities
 - \$700 million invested



Town of Homer

<https://www.ny.gov/programs/downtown-revitalization-initiative>



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New York Forward

- Building off the success of DRI, New York Forward invigorates and enlivens downtowns in New York's smaller and rural communities
 - Villages, hamlets and other small, neighborhood-scale municipal centers are eligible
- Two or three communities from each of the 10 REDC regions receive \$2.25-\$4.5M
- \$100M awarded in the first round



<https://www.ny.gov/programs/ny-forward>



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518-473-3355

localgov@dos.ny.gov

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

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