



# ZONING BASICS FOR ENFORCEMENT OFFICIALS & BOARD MEMBERS

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## 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

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## 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

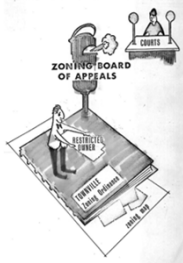


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### Zoning Requires a Safety Valve

- 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



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### Zoning Needs Administration and Enforcement

Administrative	Enforcement
<ul style="list-style-type: none"> <li>• Acquire, prepare &amp; distribute forms</li> <li>• Receive applications</li> <li>• Maintain records of administrative actions</li> <li>• Make determinations regarding compliance                             <ul style="list-style-type: none"> <li>○ Zoning and other land use laws</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Receive complaints</li> <li>• Conduct investigations &amp; inspections</li> <li>• Take necessary zoning enforcement actions</li> </ul>

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### 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

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### 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!

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## ZONING CONTENT

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### 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

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## 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

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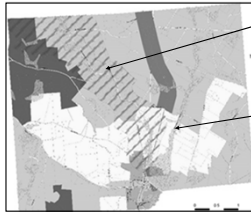
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## Overlay / Special Use Districts

- 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



Aquifer protection overlay

Conservation overlay on river corridor

Town of Bridgewater, NY

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11

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## 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

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12

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## 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
Metrol		
Motor vehicle repair services, major		
Motor vehicle repair services, minor		
Office, general		
Opposite market	SI	
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		

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19

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## 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

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## 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

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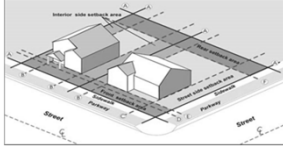
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## Dimensional / Form Requirements

- 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



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## Dimensional Requirements

	Zoning Districts					
	P	R	NC-1	NC-2	VC	T
Minimum lot size	20,000 square feet	9,000 square feet	9,000 square feet	9,000 square feet	-	12,500 square feet
Minimum frontage	-	70 feet	70 feet	70 feet	-	100 feet
Minimum depth	-	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		-	100 feet from ROW	100 feet from ROW
Side yard minimum	-	8 feet	8 feet	8 feet	-	15 feet
Rear yard minimum	-	30 feet	30 feet	30 feet	-	15 feet
Maximum lot coverage	-	30%	30%	30%	100%	30%
Principle building minimum height*	-	-	-	-	25 feet	-
Principle building maximum height**	35 feet	35 feet	35 feet	35 feet	45 feet	50 feet
Accessory building/structure maximum height***	15 feet	20 feet	20 feet	20 feet	15 feet	35 feet

**Tip:**  
Don't overlook footnotes as they may contain important regulations

\* 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.

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26

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## 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



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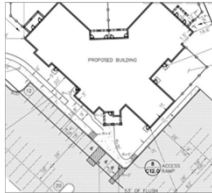
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## Site Plan Review

- 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

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## ADDITIONAL REGULATION OF CERTAIN USES

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## 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

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## 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.

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31

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## 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



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## OTHER PERMITS/ APPROVALS

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## 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

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## Subdivision



- 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

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

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## 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

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# PROJECT EXAMPLES

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## 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



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## 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 (NMF)
  - 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

- Property located in:
- Downtown Mixed Use (DMU)
  - Waterfront Overlay (WO)

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### 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?

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### 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 interpreting 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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Department of State  
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Government Services**

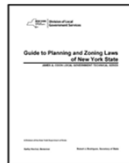
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