

NEW YORK ZONING LAW AND PRACTICE REPORT



SEPTEMBER/OCTOBER 2021 | VOLUME 22 | ISSUE 2

MODEL LOCAL LAWS TO INCREASE RESILIENCE: A COMPREHENSIVE RESOURCE FOR MUNICIPALITIES ALONG NEW YORK STATE'S LAKES, RIVERS, AND COASTLINES

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I. INTRODUCTION

New York State residents, businesses, and property owners are at increased risk from the effects of climate change and extreme weather events. In particular, much of New York City as well as communities on Long Island and the tidal Hudson River are vulnerable to coastal flooding. Along New York's coast, sea level has risen an average of 1.2 inches per decade since 1900. Based on these rates, by 2100 sea level rise is projected to result in 100-year coastal flooding events (equivalent to 1% chance in any given year) occurring 19 times more often than they do today. In addition, coastal communities as well as inland communities along our rivers and creeks have experienced an increase in the frequency and intensity of rain. The number of times that 2 inches of rain falls in a 48-hour period has increased in many areas of the state, causing flash floods in urban and hilly areas, and damage to infrastructure, homes, and businesses that are located in or close to floodplains.

Recognizing this risk, the New York State Community Risk and Resiliency Act¹ required that the Department of State work with the Department of Environmental Conservation (DEC) and other partners to develop model local laws to help local governments increase their community's

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resilience to future sea-level rise, storm surge, and flooding. The publication fulfilling this requirement is entitled “Model Local Laws to Increase Resilience.”² Cities, towns, and villages are invited to adapt one or more of these model local laws to meet the resilience needs specific to their community with the assistance of their municipal attorneys.³

II. ORIGIN AND SCOPE OF THE MODEL LOCAL LAWS TO INCREASE RESILIENCE

The model local laws were drawn from several sources, including existing model laws; good examples of current local laws from New York State municipalities; a few examples of laws outside of New York State; and in some instances, sections from various laws were combined using professional expertise. Where existing laws have been adapted, that is noted, and endnotes provide links to the laws so they may be seen in context. The best examples were then organized based on the main focus of the law into five chapters: Basic Land Use Tools for Resiliency, Wetland and Watercourse Protection Measures, Coastal Shoreline Protection Measures, Management of Floodplain Development, and Stormwater Control Measures, although many of the model laws address issues in more than one chapter. Each chapter includes an introduction and technical overview of the

topic, a comparison of the various model laws in the chapter, and a comprehensive list of references.

During development of the model local laws, a “one-size-fits-all” approach was rejected in favor of providing a range of alternatives. This menu-based system recognizes that local governments have varying levels of expertise and interest in the amount of intervention they want to exercise through the adoption and enforcement of local laws. Reflecting this approach, the model local laws range in scope from one or two pages that can be added to a community’s zoning, subdivision, site plan, or stormwater law; to a three- to five-page zoning overlay district; up to a comprehensive 15- to 20-page law including all the standard local law sections addressing a topic (for example Model Local Law # 2.1.4 Local Freshwater Wetland Law). The result is over 400 pages of resource material that communities and their municipal attorneys can choose from based on their local conditions, expertise, and capacity.

III. LOCAL AUTHORITY AND LAND USE TOOLS

While protecting their citizens and preventing property damage is important to municipal leaders, they are often unsure of the authority that they have to regulate land use in floodplains, wetlands, watercourses, and coastal areas. To address this question, the introduction to some of the model local laws (for example Model Local Laws # 1.2.1 Minimum Lot Size; and # 1.5 Subdivision Regulations), references the legislative authority that local governments have through the New York State zoning and subdivision enabling statutes to limit development in the floodplain on the basis of risk to health, safety, and welfare. Statutory authority for municipalities to regulate development via zoning and special use permits, subdivision review, and site plan review is granted in New York State General City Law, Town Law, Village Law, and Municipal Home Rule Law.⁴ In the introduction to other model local laws, the process is described whereby the municipal attorney would need to draft a local law that includes a provision superseding the State zoning enabling statutes in Town Law or Village Law, citing the authority to adopt local laws under the New York State Constitution Article IX and Municipal Home Rule Law § 10 (for example Model Local Laws # 1.2.4 Setbacks; # 3.1.3 Shoreline Protection Outside of

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NEW YORK ZONING LAW & PRACTICE REPORT (ISSN 1551-2126) (USPS 013-500), is published BI-MONTHLY by Thomson Reuters, 610 Opperman Drive, Eagan, MN 55123-1340. Periodicals Postage paid at St. Paul, MN.

POSTMASTER: Send address changes to *NEW YORK ZONING LAW & PRACTICE REPORT*, 610 Opperman Drive, Eagan, MN 55123.

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Coastal Erosion Hazard Areas; # 3.2.1 Fixed Setback; # 3.2.2 Tiered Setback; and # 3.2.4 Erosion and Lot Depth-Based Setback).

Local Planning Board members may also be concerned about overstepping their authority to request changes in site plans and subdivision plats to address areas that are known to flood, and to protect wetlands, watercourses and coastal areas. To give Planning Boards the tools to protect and manage these resources that are integral to community resilience, at least 25 of the Model Local Laws include provisions that clearly provide local Planning Boards with the authority to require site plan approval in resource areas, authorize special use permits for potentially harmful activities, and/or impose conditions when deemed necessary by the Board to protect the health, safety and welfare of the community.

There are many tools available to local governments in New York State to regulate the use and development of land in accordance with a comprehensive plan. Basic tools include zoning, subdivision review, and site plan review. Special use permits, setbacks and buffers, and zoning overlay districts are additional land use tools included in all five chapters of the Model Local Laws document that can be used to add language to existing zoning laws to allow the Planning Board to impose additional conditions in resource areas. As mentioned earlier, the correct legislative authority for these provisions must be referenced in the local law as applicable. An overview of these land use tools is provided here.

COMPREHENSIVE PLANS

In New York State, the zoning enabling statutes require municipalities to adopt zoning laws in accordance with a comprehensive plan.⁵ A community's comprehensive plan is, "the culmination of a planning process that establishes the official land use policy of a community and presents goals and a vision for the future that guides official decision-making."⁶ When considering amending zoning or adopting a new law using one of the Model Local Laws to Increase Resilience, communities should consider adopting (or updating an existing) comprehensive plan to ensure their local laws are in accordance with the plan. Mapping and describing coastlines, lakes, rivers, and wetlands in the comprehensive plan is important to provide the factual basis for a local law referencing these resources.

For example, Model Local Law #1.1.3—Waterfront Bluff Overlay District, cites the comprehensive plan in the local law. This model law was adapted from the zoning law in the Town of Lloyd (NY), where steep bluffs above the Hudson River are environmentally sensitive areas. Section X of the model local law states, "Conformity to Zoning Code, Official Map and Comprehensive Plan. Subdivisions shall conform to the roads and parks shown on the Official Zoning Map of the [City/Town/Village]. Additionally, subdivisions shall be designed to ensure that subdivision development, including but not limited to the construction of dwellings and the roads therein, complies with the standards of the Waterfront Bluff Overlay District, properly conforms to the requirements of the [City/Town/Village] Zoning Code and shall be consistent with the Comprehensive Plan."

The Town of Lloyd adopted a Comprehensive Plan in 2005 and updated it in 2013 to include the following relevant language highlighting the importance of the bluffs, "In 1994, the town adopted a Local Waterfront Revitalization Program (LWRP) and a Waterfront Bluff Overlay District (WBOD) to protect the Hudson River shoreline. The purpose of the LWRP is to promote economic development and revitalization of the waterfront while ensuring the protection and beneficial use of coastal resources. The town's waterfront stretches inland from the town's easternmost boundary, which is the centerline of the Hudson River, and includes all land east of Route 9W. The WBOD provides further restrictions in this area to protect and enhance the Hudson River waterfront's natural, scenic, and cultural resources.

The most notable characteristics of Lloyd's waterfront area are the dramatic bluffs and very small areas of lower shoreline. The bluffs rise 100 to 300 feet from the river edge to the upland area, which is sparsely developed with single-family residences, orchards, and vineyards. The bluffs are an environmentally sensitive area for development and are visually dominant from the river and the opposite shore. These features make this area worthy of protection from future development."⁷

The comprehensive plan should provide the basis for protection of open areas that are important to increase resilience. "A sound open space planning process can lay the foundation for a community's application of conservation subdivision regulations. Foundations of the plan include:

- Inventory of natural and scenic resources for preservation—This may include identification of resources by the community through meetings, surveys or planning charettes; the inventory of environmental resources (such as significant wetlands and stream corridors); and integration of resource information identified by state or regional agencies (such as floodplains and productive agricultural lands) into the comprehensive plan for local systems.
- Open space plan or component of comprehensive plan—This includes the development of an open space plan and its components, which may include a community vision plan, recreation plan, bikeway plan, and farmland preservation plan.”⁸

Model Local Laws # 1.5.6 Cluster, Open Space, and Conservation Development, is an example of incorporating in a local subdivision law references to open space protection in the comprehensive plan. The model was adapted from the City of Saratoga Springs (NY) subdivision law, one of the earliest conservation subdivision laws adopted in New York State.

Adoption of wetlands provisions in comprehensive plans, and application of environmental review pursuant to the State Environmental Quality Review Act (SE-QRA), help communities protect wetlands by providing policy and analysis in support of local laws. A comprehensive plan can also support the adoption of steep slope protection overlay districts as a technique to:

- Enhance flood protection.
- Maintain and improve surface water quality.
- Preserve wildlife habitats.
- Preserve aesthetics.
- Maintain soils and slope stability.
- Control adverse impacts of existing development.

SPECIAL USE PERMITS

Building structures too close to the shore places them at greater risk to erosion and flooding. This often leads to costly and problematic erosion control and shoreline armoring measure, placing undue economic and environ-

mental strain on communities. Zoning amendments that establish setbacks, special use permit requirements, and other local regulatory measures can reduce the risk of damage to structures and preserve natural features critical to the resilience of coastal systems. While such measures do not eliminate risk due to erosion and flooding, they can provide a measure of safety and an opportunity for other adaptive measures in the future.⁹

A special use permit, as defined in Village Law 7-725 b, is, “an authorization of a particular land use which is permitted in a zoning local law, subject to requirements imposed by such local law to assure that the proposed use is in harmony with such local law and will not adversely affect the neighborhood if such requirements are met.”¹⁰ Similar definitions are used in NYS Town Law and General City Law.¹¹

The special use permit is often the zoning tool that review boards engage for applications in overlay zones or other districts in which zoning laws have been written to protect a sensitive resource from the effects of development. When contemplating the issuance of special use permits, review boards evaluate the conditions needed or permit or deny development within or in close proximity of a flood hazard, wetland, steep slope, coastal erosion, and other sensitive areas.¹²

Model local law # 3.4.1 Special Use Permit Alternatives Analysis, encourages use of natural, non-structural, and nature-based shoreline protection measures instead of hard structures. Nature-based features are designed to emulate natural features and processes, allowing them to deliver multiple resilience benefits while avoiding the negative effects of structural measures.¹³ This local law requires applicants proposing to construct, substantially reconstruct, or enlarge a shoreline management measure to apply for a special use permit and conduct an analysis of various shoreline treatment options. The analysis must identify whether a proposed activity will result in an unavoidable loss of ecological habitats or unavoidable adverse impacts to a waterway, waterbody, natural resource, or natural process through calculation of the net gain or loss of such areas. The applicant must demonstrate why no action, non-structural and natural features, or nature-based features are not sufficient to protect the shoreline or waterfront structure from flooding or erosion risk, and therefore structural measures

must be used. To assist municipalities with technical review of such an analysis, the model law includes a provision allowing the local review board to retain an engineer or other qualified professional, and establishment of a fee schedule for the review.

Other examples using special use permits in environmentally sensitive areas include:

- # 1.1.2 Waterfront Overlay District, adapted from the Town of Saugerties on the Hudson River. This local law requires that stairways or walkways constructed on a steep slope obtain a special use permit from the Planning Board or Zoning Board of Appeals (as applicable to the community using the model).
- # 1.3.2 Nonconformance of Impermeable Surface Coverage, adapted from the Town of Skaneateles in the Finger Lakes region. This model local law allows legal nonconforming lots in the Lake Watershed Overlay District to be redeveloped by special use permit subject to reduction of impermeable surface coverage on the lot to the maximum extent feasible. The planning board can require mitigation if the lot does not comply with applicable maximum impermeable surface coverage requirements, and for the special use permit to be granted, the applicant must obtain either a conservation easement or contribute to a fund.

The last three examples use special use permits to address timely implementation of storm recovery activities:

- # 1.4.1 Temporary Emergency Dwelling Permit, adapted from the Village of Aurora, NY on Cayuga Lake. To address the need for storm recovery activities to move forward in a timely manner, this local law allows for the placement of an emergency dwelling on a lot where a dwelling damaged by flood, fire or other disaster is located with the grant of a special use permit or other administrative permit.
- # 1.4.2 Emergency Staging Bases, adapted from the Town of North Salem, NY, allows the use of property as an emergency staging facility for public utility service providers when a special use permit is granted.¹⁴

- # 1.4.3 Temporary Mobile Office Units allows for temporary office units (such as trailers) to be placed through approval of a special use permit.

SITE PLAN REVIEW

Site plan review is authorized for municipalities in New York State's planning and zoning enabling statutes.¹⁵ The site development plan specifies the present characteristics of a particular parcel of land and its surroundings and describes intended activities and their potential impact on the community.¹⁶ If properly authorized in a local law, the local review board can use site plan approval to consider erosion control, stormwater management, and vulnerability to disaster; apply natural resource protection standards; and include flood mitigation requirements in conditions placed on site plan approval.

ZONING OVERLAY DISTRICTS

Overlay districts may be established to provide special controls over land development located in sensitive environmental areas. The regulations contained in an environmental overlay district would not be a substitute for the zoning regulations of the underlying primary zoning districts but are additional requirements that shall be met by an applicant or developer prior to project approval. The purpose of overlay districts is to provide the municipality with an additional level of review and regulation that controls how land development permitted by the municipality's primary zoning districts should occur in or near sensitive or unique environmental areas.¹⁷

Many municipalities in New York State have also used their home rule authority to complement state and federal programs by enacting local freshwater and tidal wetland laws and other local mechanisms such as wetland permits, zoning overlay districts, zoning setbacks, clearing and grading ordinances, and open space conservation to protect wetlands.

The following examples from Model Local Laws to Increase Resiliency combine a zoning overlay district with site plan review standards to ensure that a municipality has the local authority to protect floodplains, wetlands, and stream corridors, and manage erosion and stormwater runoff:

- # 1.1.2 Waterfront Overlay District—All develop-

ment and all uses in the waterfront overlay district are subject to site plan review, allowing a higher level of evaluation in this sensitive area. The overlay district specifies standards for site plan review in addition to the standards elsewhere in the zoning law. For example, in order to prevent erosion and protect water quality, E.(1)(a) specifies that there shall be no clear-cutting of trees and mature vegetation shall be protected and preserved as much as possible, including but not limited to trees six inches in diameter or more.

- # 1.1.3 Waterfront Bluff Overlay District, adapted from the Town of Lloyd (previously discussed in relation to the Comprehensive Plan). Similar to #1.1.2, this local law requires site plan review for all uses in the overlay district. The following site plan review standard in the local law is intended to prevent erosion on steep slopes: F.(2)(e) Excavations or cuts made to the steep slope associated with a bluff shall only be permitted where such activities involve bluff cuts made in directions that take advantage of the natural contours of the land or are at oblique angles to the shoreline in order to minimize erosion, control runoff, and protect scenic resources. Side slopes and other disturbed non-roadway areas must be stabilized with vegetation or other approved physical means. Completed paths, accessways or roadways must be stabilized, and appropriate drainage provided.¹⁸
- # 2.1.3 Wetland Conservation Overlay District, adapted from the Village of Trumansburg, NY in the Finger Lakes region. Except for a limited set of repair, maintenance and public health exemptions, the overlay district language requires that all proposed uses of land or structures not existing when the law was enacted are subject to site plan review. Site plan review criteria require the applicant to address the impact of the development on the ability of the wetland to provide important functions and values, including filtering pollutants, storing floodwaters, supporting habitat, and maintaining surface water flow.

In addition, any development within the overlay district must be set back a certain number of feet from the boundary of all wetlands of a certain size. The Village of Trumansburg specified a buffer of

100 feet from all wetlands of two acres in size or larger, providing a higher level of protection than the NYS Freshwater Wetlands Act (Article 24 and implementing regulations).¹⁹ The model local law suggests a buffer of 150 feet but allows a municipality to insert an alternate width based on local conditions. The model also provides flexibility by allowing the local review board to require a buffer area greater than that specified in the law where they determine the larger buffer is necessary to provide flood protection or support other functions of the wetland.

- # 2.2.3 Watercourse Overlay District, adapted from the Stream Corridor Overlay Model Local Law developed by the Moodna Creek Watershed Council in Orange County, NY. This model is especially applicable to communities with freshwater streams and rivers that are subject to flooding. The local law requires proposed development to be set back from the stream or river by a specified stream buffer width to allow vegetated stream banks to prevent flooding and erosion. The required riparian buffer area must be displayed on all plans that are submitted to the municipality for subdivision or site plan approval, building permits, and appeals for variances.

The last example combines a zoning overlay district with special use permit requirements in order to provide higher standards in flood prone areas.

- # 4.2 Floodplain and Wetland Resource Conservation (FWRC) Overlay District, adapted from the Town of Greenfield, NY, in Saratoga County. Most communities in New York State have a local Flood Damage Prevention Law to ensure that property owners in the mapped floodplain will be eligible for FEMA's Flood Insurance Rate Program. However, the community's Flood Insurance Rate Maps (FIRMs) may not identify all of a community's at-risk areas. This is because some maps are outdated (some New York maps are over 40 years old), not reflecting land use change and an increase in impervious cover that have increased flooding impacts. Also, some older maps focused on watersheds larger than one square mile, therefore do not have the detail necessary to predict localized flood-

ing problems. In addition, the original flood study may not have reflected hazards such as dam or levee failure, stormwater flooding, or land subsidence.

To provide a higher level of protection, this model local law employs a zoning overlay district that applies standards to lands meeting any of the following criteria:

- (1) All lands within the 100-year [*alternatively, 500-year*] flood zone as determined by the Federal Emergency Management Agency.
- (2) A 500-foot conservation buffer zone adjacent to the 100-year (1% or greater annual chance) flood zone [*alternatively, the 500-year flood zone or 0.2% or greater annual chance*] or, where no flood zone exists, measured from the center line of the stream.
- (3) All lands designated as New York State Department of Environmental Conservation regulated wetlands.
- (4) All lands designated as federal regulated wetlands by the United States Army Corps of Engineers.²⁰

To provide the regulatory control in these flood prone areas, the local law states, “C. All uses in the underlying zoning district, including permitted uses, accessory uses, and special uses, shall be permitted only as a special use in the FWRC Overlay District. Each use shall require a special use permit in compliance with [*insert chapter number for the Flood Damage Prevention law*], and the additional standards of this section.” To provide some relief, section C. includes, “Within the 500-foot conservation buffer zone, a special use permit is not required for a minor exterior structural addition or alteration (defined as an enclosed porch, deck, stairway or other similar facility).”²¹

Additional provisions in this model local law limit development in the defined flood prone areas, effectively allowing the community to provide long-term protection of their citizens and their property:

“E. Additional standards. Any building, structure, or use of land within the FWRC Overlay District shall comply with the following requirements:

- (1) No development shall be allowed, other than construction of piers, docks and similar water-dependent uses that have been permitted, providing such uses comply with permitting requirements and the criteria in paragraph (E)(3) below. For the purposes of this section “Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.
- (2) Within the 500-foot conservation buffer zone, no development may take place unless such development is determined by the Planning Board to be in compliance with the following criteria”: [includes consideration of environmental resources, open space, greenbelts, buffers along the stream corridor, disturbance to streambanks is minimized, runoff is controlled, natural vegetation is maintained, floodplain development criteria for special flood hazard areas is applied, and base flood elevation data is provided regardless of the proposed development size]²²

IV. OVERVIEW OF THE FIVE CHAPTERS

CHAPTER ONE: BASIC LAND USE TOOLS FOR RESILIENCY

Chapter One includes a number of basic tools such as zoning districts, waterfront zoning district, waterfront overlay district, waterfront bluff overlay district, Transfer of Development Rights, area regulation, lot size, height, and coverage models as well as setbacks. This Chapter, and zoning in general, allows a community to target regulations to areas at risk from damage due to human actions, sea-level rise, storm surge, and flooding. It may be used to avoid development in hazardous areas; reduce community storm impacts; conserve natural protective features; and control development densities to reduce impacts and facilitate recovery. Without adequate zoning or other basic tools like site plan and subdivision review, development and redevelopment can continue in ways that place people, property, and critical infrastructure at

risk from climate-induced sea-level rise, storm damage, and flooding.

CHAPTER TWO: WETLAND AND WATERCOURSE PROTECTION MEASURES

Chapter Two includes model local laws such as wetland protection, setbacks and buffers, and wetland conservation overlay district as well as a local freshwater wetlands law. As we know, watercourses are integral parts of the landscape that carry water and sediment from headwaters to downstream lakes, estuaries, and the ocean. Associated wetlands act as sponges, absorbing floodwaters and filtering out pollutants. Watercourse flooding usually involves a slow buildup of water and a gradual inundation of surrounding land. The presence of non-fragmented (intact) floodplains, wetlands, and forests contributes to a slower release of this stormwater buildup and helps to mitigate damaging peak flows of water. However, flash flooding can also result when short-term intense precipitation, steep slopes, a short drainage area, and/or a high proportion of impervious surfaces are present. Local governments can increase their resilience to both flash flooding and the slower buildup of floodwaters by protecting watercourses, floodplains, wetlands, and the marine coast. They can adopt local laws to define wetlands; and regulate activities that may affect floodplains, watercourses, marine coastal shorelines and freshwater and tidal wetlands and their buffers. These laws can address the need to absorb floodwater and reduce risk; and adjust to changes expected from increased precipitation, storm surges, and sea-level rise.

CHAPTER THREE: COASTAL SHORELINE PROTECTION MEASURES

Chapter Three includes model laws addressing coastal erosion, a discussion on Coastal Erosion Hazard Areas (CEHAs), alternative CEHA management models and shoreline protection models for areas outside CEHAs. Coastal shorelines are inherently dynamic environments, shaped over time by winds, waves, tides and currents, as well as human activities. Increasing sea levels will result in more frequent and extensive storm flooding, and over the long term could mean permanent inundation in some areas. This chapter provides several models for local governments to adopt to preserve the natural protective

aspects of shorelines, and to limit the impacts to the built environment.

CHAPTER FOUR: MANAGEMENT OF FLOODPLAIN DEVELOPMENT

Chapter Four includes models on limiting development in 100-year and 500-year floodplains, floodplain and wetland resource conservation overlay district, county administration of flood damage prevention law and establishing a design flood elevation. As municipalities know, when floodplains are altered, the ability of floodplains to absorb floodwaters and reduce risk from a flood is diminished. Development within a floodplain can make flooding and flood damage more severe and extensive. Nearly all municipalities in New York have flood damage prevention laws which are a critical component of reducing municipal risk from damaging floods, and a critical requirement that must be met to qualify municipalities for the National Flood Insurance Program. Laws that govern the use, siting, design, construction, and maintenance practices in floodplain areas can complement flood damage prevention laws in order to help manage floodplain development and limit damage from flooding.

CHAPTER FIVE: STORMWATER CONTROL MEASURES

Chapter Five includes such model local laws as steep slopes, lot frontage and driveways on steep slopes, steep slope protection overlay district, stormwater management and reducing impervious surfaces and Mitigation for Failure to Reduce Impermeable Surface Coverage. Stormwater is an important water resource, recharging groundwater as it makes its way to lakes and streams. However, land development often eliminates features that moderate stormwater runoff, exposing soil to erosion, limiting natural absorption, and increasing pollutants in runoff. Instead of a valuable resource, stormwater becomes a costly and sometimes dangerous problem. This chapter provides several models for local governments to adopt to meet or exceed their responsibilities for managing stormwater under state and federal law. For communities regulated under the Municipal Separate Storm Sewer (MS4) program, this chapter includes two new versions of the required Model Stormwater Management and Erosion & Sediment Control Law that

will soon be available from DEC. The first model includes provisions that can be added for impaired waters and enhanced phosphorus removal watersheds; and the second model includes additional provisions for community resiliency. The second model addresses community resiliency by requiring green infrastructure planning as a regular component of development approval.

V. ASSESSMENT TOOL FOR PLANNING AND PRIORITIZATION

To assist local governments with deciding what model laws might be right for them, the Department of State asked the US Environmental Protection Agency (EPA) and Federal Emergency Management Agency (FEMA) to develop a local assessment tool. EPA and FEMA worked with the ad hoc Long Island Smart Growth Resiliency Partnership to produce the Resilience Implementation and Strategic Enhancements (RISE) Local Assessment Tool.²³ This planning tool is organized into seven resilience focus areas: 1. Ensure comprehensive understanding of known hazards, risks, and vulnerabilities and their potential effects; 2. Conserve land in critical coastal areas, river corridors, and other flood prone environments; 3. Reduce risk to people, buildings, and facilities in vulnerable areas; 4. Plan for and encourage development in safer areas; 5. Implement comprehensive stormwater management techniques; 6. Expand community capacity to enhance resilience; and 7. Build support for improving community resilience and remove barriers to implementation. This publication will help a local government consider the hazards it faces and assess and refine its laws and policies in a way that improves resilience and helps achieve desired community outcomes.

Each one of the seven focus areas in the RISE tool begins with an introduction to the topic and examples of practical applications in local communities; and asks several questions to help the community understand key challenges. The focus area then provides a checklist that can be used to inventory strategies such as studies, adopted plans, regulations, policies, incentives, or education programs related to the focus area topic. The checklist allows the community to indicate whether they currently have and are using the strategy, or whether they would like to have or improve the particular strategy. When the community is done with the inventory pro-

cess, they can summarize what they have found by using prioritization, action planning, and implement worksheets provided at the end of the document,

VI. CONCLUSION

There are a wide range of examples in the Model Local Laws to Increase Resilience that local governments can draw on to increase the effectiveness of their zoning law and other local land use tools, or establish a new zoning, wetland and/or watercourse, or stormwater law. The model local laws should be treated as a starting point for local law provisions that can be tailored to fit into an existing scheme of land use laws in a municipality. Local government officials that are considering the adoption of any of these models should seek the advice of their municipal attorney. The RISE local assessment tool can assist municipalities with determining where there are gaps in their suite of local land use laws and prioritize where to focus their efforts in improving those laws or adopting new laws. Together, these planning tools will help communities address one or more of the ever growing resiliency concerns that we face in New York State.

ENDNOTES:

¹The Community Risk and Resiliency Act was enacted in 2014 and amended by the Climate Leadership and Community Protection Act in 2019.

²This publication is available at: Model Local Laws to Increase Resilience | Department of State (ny.gov).

³This publication does not establish any legally binding standards or criteria for state or local government to follow. Use of this guidance by a municipality should not substitute for consultation with an attorney working on behalf of the municipality.

⁴New York Town Law Chapter 62, Article 16; New York Village Law Article 7; New York General City Law § 20(25) Retrieved 8/25/21 from: Legislation | NY State Senate (nysenate.gov).

⁵General City Law § 20(25); Town Law § 263; Village Law § 7-704. Retrieved 8/25/21 from: Legislation | NY State Senate (nysenate.gov).

⁶Zoning and the Comprehensive Plan, James A Coon Local Government Technical Series, NYS Department of State, Revised 2015.

⁷Town of Lloyd Comprehensive Plan, 2013. Retrieved from: <https://www.townoflloyd.com/buildingzoning-enforcement-department/pages/comprehensive-plan>.

⁸Subdivision Review in New York State, James A

Coon Local Government Technical Series, NYS Department of State, Revised 2015.

⁹Model Local Laws to Increase Resilience, Chapter 3, Page 4.

¹⁰Village Law § 7-725-b. Retrieved 8/25/21 from: Legislation | NY State Senate (nysenate.gov).

¹¹General City Law § 27-b; Town Law § 274-b. Retrieved 8/25/21 from: Legislation | NY State Senate (nysenate.gov).

¹²Model Local Laws to Increase Resilience, Chapter 1, Page 48.

¹³Model Local Laws to Increase Resilience, Chapter 3, Page 92.

¹⁴Model Local Laws to Increase Resilience; Chapter 1, Page 49.

¹⁵General City Law § 27-a; Town Law § 274-a; Village Law § 7-725-a. Retrieved 8/25/21 from: Legislation | NY State Senate (nysenate.gov).

¹⁶Site Plan Review, James A Coon Local Government Technical Series, NYS Department of State, Revised 2012.

¹⁷Model Local Laws to Increase Resilience, Chapter 5, Page 11.

¹⁸Model Local Laws to Increase Resilience, Chapter 1, Page 22.

¹⁹New York State Environmental Conservation Law, Article 24, retrieved from: https://www.dec.ny.gov/docs/wildlife_pdf/wetart24b.pdf Implementing regulations: 6NYCRR PART 663, Part 664, and Part 665, retrieved from: <https://www.dec.ny.gov/regs/2485.html>.

²⁰Model Local Laws to Increase Resilience, Chapter 4, Page 13.

²¹Model Local Laws to Increase Resilience, Chapter 4, Page 13.

²²Model Local Laws to Increase Resilience, Chapter 4, Page 13.

²³The Rise Local Assessment Tool is available at: https://dos.ny.gov/system/files/documents/2020/06/community_resilience_c-rise.pdf.

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