PLAN AHEAD

How to envision, shape, and prepare for energy development within your community

Prepared by Southern Tier Central Regional Planning and Development Board and the Planning Departments of Chemung, Schuyler, and Steuben Counties
* A 'Regional Regulation Table' is located on page in Chapter 9 for clarification of regulations per municipality. The map above is based off current STC database and county planning departments. Please contact STC Planning if there is an inaccuracy or need for clarification.
The exploration for natural gas in the Marcellus Shale formation presents unique challenges for many New York municipalities. Most communities, who should be at the forefront of the development occurring in their municipalities, are experiencing difficulty in planning for the implications of natural gas development or other large scale energy developments; e.g. wind farms.

Hopefully this guide will provide local officials with an understanding of the magnitude, short term, and long term implications of such development, as well as enable them to consider certain land use regulations that will protect their communities and resources.

Now that the energy industry, specifically natural gas development, is at the center of many discussions in our region, many municipalities are left wondering what they can do to prepare for it. Southern Tier Central Regional Planning & Development Board in cooperation with planners from Chemung, Steuben, and Schuyler Counties got together in early 2011 to create a condensed, easy-to-read land-use guide for local officials and residents to start addressing some of their concerns. The guide provides an introduction to planning and its application to the energy industry as well as online resources and a checklist municipalities can follow to prepare for natural gas development, as well as, other large scale energy developments. The agencies involved in the creation of this guide worked hard so that our communities can be prepared for energy development. We hope you find this guide useful. Happy reading!

* An official online version of this guide is available at: [www.stcplanning.org](http://www.stcplanning.org) (where all online resources are hyperlinked on the official online version.)
This publication is the result of the work of many people.

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An increasing demand for energy compels the United States to produce more energy domestically from both fossil fuels and renewable sources such as wind, solar, and biomass.

In our area of New York State, we have customarily imported energy from other places and have not wrestled with energy development impacts. Recently, however, several Southern Tier communities have struggled to balance environmental impacts, property owners’ rights, and economic issues surrounding industrial-scale wind farms. The town of Cohocton has completed two wind farm developments. Other towns continue to struggle with large scale wind development such as the towns of Howard and Prattsburgh. These communities have come to understand the importance of planning and developing regulations to address the impacts of energy development.

Although natural gas production is not new to the Southern Tier—some formations such as the Trenton-Black River have long been in production—it’s intensity and impact have been minimal. Now, horizontal drilling and hydraulic fracturing technologies, combined with increased energy demand and prices, create the potential for extraction of large volumes of natural gas from shale layers like the Utica and the Marcellus. The size of the gas resource and its proximity to large population centers, makes our part of New York, like much of neighboring Pennsylvania, a “hot spot” for natural gas drilling and extraction.

Biomass production using idle farmland and solar energy development are additional potential energy sources for our area; and despite their growth, wind and natural gas development dominate the discussion and make up much of the municipal focus in this energy guide.

How will development of these energy sources affect land use in our communities?

History has shown that energy development can affect communities in different ways. While the general categorical of potential impacts can be identified, it is impossible to predict all the positive and potentially negative impacts that your community may experience. This document is designed to give you the planning tools to address the effects of energy development on your community, whatever the impacts may be.

We will see visual changes such as wind turbines, access roads, and clearings for utility lines and natural gas pipelines. We may see land uses new to rural areas including industrial storage yards and temporary employee housing facilities. We may see new commercial enterprises serving the new workforce. We may also experience housing shortages leading to higher living expenses. Will our tourism industry be affected by landscape changes or lodging scarcities? Will erosion control issues, stormwater management concerns, and other environmental impacts result from this new energy development?

Because our rural area may see land use changes at a rate not experienced before and because it is important to think long-term and plan for the wellbeing of our communities, the Planning Departments of Chemung, Schuyler, and Steuben Counties along with the Southern Tier Central Regional Planning & Development Board have combined forces to produce this guide to help communities navigate the planning process and prepare for the changes ahead. We expect this guide to evolve as new information becomes available and conditions change.

We highly recommend you consult your municipal attorney & planning officials before adopting any recommendations contained in this guide.
This guide is divided into eight sections: 1) land use primer, 2) comprehensive plan, 3) zoning, 4) site plan review, 5) subdivision, 6) environmental review, 7) other considerations, and 8) overview checklist. Resources links, model regulations, and additional online information are provided along the side panels to each section.

It is our hope that this guide remain dynamic and be amended on a regular basis to reflect any changes, new recommendations to regulations and ordinances that stand as models for other communities to utilize.

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**Cuomo Approves Power Plant Siting Law**

On August 4, 2011 Governor Cuomo signed into law the Power New York Act of 2011. Part of this new law, known as Article X, re-establishes a state-level “fast-track” power plant siting process that will apply to electricity generating facilities 25 MW and greater capacity, including proposed utility-scale wind farms.

These proposals will henceforth be reviewed and permitted by a state level siting commission consisting of state agency officials and two ad hoc members of the host community. The state-level review would replace the SEQR process typically led by local municipalities. The siting board could also overrule aspects of local zoning ordinances if it determined that they would place an unreasonable burden upon developers; and local municipalities are not allowed to impose any additional requirements on applicants under the new law.

Project applicants would be required to contribute between $30,000 and $750,000 to an intervener fund that could be used by local municipalities to hire legal, environmental, or engineering specialists (but could not be used to fund litigation). The new Article X requires the siting board to issue a decision within one year of receiving the completed application. This change is intended to streamline the siting process for new power plants.

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**Learn More**

- Marcellus Shale: What local government officials need to know (PennState)
- New Recommendations Issued in Hydraulic Fracturing Review (NYSDEC)
- Revised Draft SGEIS on the Oil, Gas and Solution Mining Regulatory Program (September 2011)
- Zoning and Planning Law Report, Fracking Wars, federal, state, and local conflicts over the regulations of natural gas activities
- NY Zoning Law and Practice Report, Regulating Natural Gas Development through Local Planning and Land Use Control
- New York State Wind Energy Toolkit, NYSERDA
- Webinars on: Local Governments and Community Interest in Natural Gas Exploration:
  - Cornell Sponsored Webinars and Presentations
  - Penn State Recorded Webinars
- Article X, Power NY Act of 2011:
  - Article 10 of the Power NY Act of 2011
  - Power project bill OK’d: Law puts decision in Albany’s hands
- Inconvenient Truths about Wind Energy: representing neighbors & communities impacted by commercial wind projects

Official online Energy Guide available at [www.stcplanning.org](http://www.stcplanning.org) where all online resources are hyperlinked.
1. Land Use Primer

Good planning makes better places to live. Good planning protects the natural environment while enhancing economic well-being and the quality of life in general. Planning helps communities document their current conditions, visualize what their communities could be in the future, and establishes strategies to meet those goals. Planning helps communities make best use of limited resources. Pending changes caused by energy development make planning even more essential for municipalities.

The comprehensive plan

A comprehensive plan is a written document that defines a municipality’s vision through goals and strategies for the immediate and long-range protection, improvement, growth, and development of a community. A comprehensive plan is formally adopted by the municipality’s legislative body and serves as a decision-making guide for land use issues including regulations, infrastructure development, public and private investments, and decisions made by other agencies and governments. A good comprehensive plan balances private property rights with the needs of the community.

Comprehensive plans are generally developed by municipal planning boards with input from municipal leaders and citizens.

A comprehensive plan is not a law and cannot be enforced. A comprehensive plan only has affect when implemented through: land use regulations; public spending and taxing policies; land acquisition; private investments in preservation or development; or the location and capacity of infrastructure such as roads or public water systems.

This guide will concentrate on developing comprehensive plans and land use regulations that address the impacts of energy development.

Implementing the comprehensive plan through land use regulations

There are three common land use regulations used to implement comprehensive plans: zoning laws, subdivision laws, and site plan review laws. By law, land use regulations must be “in accordance” with a comprehensive plan. In other words, the comprehensive plan serves as the blueprint for regulations.

Zoning regulations

Zoning regulations divide a municipality into districts, and establish the allowed uses (e.g. commercial, residential) and dimensional requirements in each district. Dimensional requirements may include minimum lot sizes, building setbacks, lot coverage restrictions, and building height requirements. Zoning regulations control what is developed where.

Subdivision regulations

Subdivision regulations control how parcels of land are divided into lots. Subdivision standards create safe, accessible, buildable lots. Making the most efficient use of land and creating good quality lots can protect a municipality’s tax base.

Site plan review regulations

Site plan review regulations impose standards on the layout of developments on individual parcels. Site plan review does not control what is built or where it is built, only how each lot is developed. The purpose of site plan review is to protect general public, neighboring property owners, and public infrastructure, by ensuring: safe and functional vehicular and pedestrian circulation, and safe ingress and egress from the public highway. Site plan review regulations may be in a stand-alone law or
they may be incorporated into a zoning law. The land use planning and regulations mention in this primer will be further elaborated upon throughout this guide.

Considering a moratorium

While municipalities are developing comprehensive plans or drafting land use regulations, the legislative body may choose to enact a land use moratorium on all development or certain uses. A land use moratorium is a local law that temporarily halts development of specified uses or all development for a limited time period specified in the law. The time period should be adequate for the planning board and the municipal board to complete the regulatory changes. Additional studies, meetings, and review usually occur during this time. A moratorium may be extended if the municipality can justify the need for more time. A moratorium cannot be used to stop development indefinitely.

Who plans?

Legislative body

Town, city, and village law in New York State all place the responsibility for land use planning with the local legislative body. In many cases, however, the legislative board chooses to delegate the duty or preparation of a plan or local planning law to an appointed planning commission or board, e.g. the “planning board.” This arrangement ideally removes the plan preparation from the political realm and allows the community to incorporate a broader range of viewpoints or expertise than may be present on the governing body.

The legislative body creates the laws and appoints members with delegated duties and authorizes to the planning board and zoning board of appeals. These boards act as an advisory or quasi-judicial authority.

Completing a comprehensive plan or creating new zoning, site plan, or subdivision laws may take more time than the governing board will have in office. The consistent membership of the appointed board can make for a smoother process. Regardless, the legislative board has the responsibility for adopting the final comprehensive plan and any local land use laws. As with other discretionary decisions involving potential impacts on the environment, the local governing body must complete the necessary environmental review (SEQR) before adopting the plan or law.

Resources

What is a land use moratorium? A moratorium temporarily suspend development approvals. The following link describes moratoria, the case law surrounding moratoria, and the drafting of a moratoria law.

Guide to Planning and Zoning Laws of New York State this document covers such topics as transfer of development rights, comprehensive plan, zoning, planning board, site plan, subdivision, zoning, zoning board of appeals, and planned unit development.

Municipal Planning Primer Series: Planning Boards
1. Land Use Primer

Planning boards

A planning board is a critical player in the community’s planning process. The planning board prepares the comprehensive plan and the implementing regulations for adoption by the legislative body, if authorized. If your municipality’s planning board is inactive, it’s important to fill any board vacancies and assign the task of planning for energy development and any other pending concerns. If your community has never had a planning board, this is an excellent opportunity to establish one.

Planning boards are created by local law and may have five or seven members. Board member terms are staggered so that one member’s term expires each year, thus providing continuity. The legislative body appoints members to the board by resolution and designates a chairperson. Legislative board members cannot be planning board members. The town or village board may budget funds for use by the planning board. Board members are usually volunteers although some communities compensate members financially.

In addition to advising the legislative body on comprehensive plans, land use regulations, and other matters referred by municipal board resolution, planning boards may approve subdivisions, site plans, or special use permits when delegated that authority. When approving subdivisions, site plans, or special use permits, planning boards must be familiar with all procedural requirements as well as the standards and criteria in the local laws.

Many communities should expect to see an increase in development. And while the primary review for wind and natural gas is at the state level a variety of secondary uses and new construction will cause in increase number of applications to be reviewed at the municipal level; e.g. storage yards, temporary use permits, special use permits, new residential development, and associated commercial/ industrial development to the energy industries.

A planning board should not be confused with a zoning board of appeals which will be discussed below.

Zoning board of appeals (ZBA)

This “quasi-judicial body” is established when a community institutes, by local law or ordinance, zoning regulations. This board has an administrative function and therefore cannot create law but instead focuses on the interpretation of the law. The main purpose of the ZBA is to hear appeals from applicants and grant relief from zoning ordinances where it deems reasonable based on a limited number of specific criteria established in law. Structured like a court, the ZBA will hear arguments and evidence from the applicant and the municipality and then make its decision. The decision typically comes in the form of a legal use variance or an area variance.

Community participation

Citizen input is a crucial part of successful planning. Community residents from varied backgrounds and experiences often provide new insight and perspectives to planning boards and elected officials.

For example, during the comprehensive planning process, the public should be engaged through surveys, interviews, public meetings, and discussion groups, in addition to the public hearings required before adopting a plan.

The main formal function of a public hearing is to get information and concerns into the public record that can be taken into consideration as a decision is made.
Formal public hearings are required before adopting a comprehensive plan and for most actions by planning boards and zoning boards of appeals, including special use permits, variances, and subdivision reviews. Boards should properly advertise a hearing and follow required procedures when conducting a hearing. Everyone must be allowed to speak at a hearing, even those who are not residents of your community.

The elected municipal board, the planning board, and the zoning board of appeals are all subject to, and should be familiar with, open meetings law for public officers and its requirements. At any meeting where public business is being discussed, people must be allowed to attend and be able to hear and follow the proceedings of the board. While there is no requirement to allow audience members to speak or participate, many boards include a public comment period in their agenda.

Executive sessions of a board may only be held under limited circumstances specified in open meetings law, Public Officers Law, Article 7. Rarely, if ever, is a Planning Board or Zoning Board of Appeals able to legally meet in executive session.

Annual training for planning boards & zoning board of appeals members

Planning board and zoning board of appeals members make decisions of major importance to their communities and to all New Yorkers. These decisions can affect the function and appearance of communities for decades to come while impacting property interests important to individual New Yorkers.

Until recently, such decisions were mostly made by appointed officials whose only legally required qualifications for office were to be at least 18 years old, United States citizens, and residents of the municipality.

While some municipalities have adopted mandatory training requirements and many planning and zoning officials voluntarily receive training, an amendment to state law requires planning and zoning board of appeals members to obtain four hours of training a year.

Chapter 662 took effect January 1, 2007. The statute requires members of planning boards, zoning boards of appeals, and county planning boards to receive a minimum number of hours of training a year.

Legislative bodies must also pass a local resolution specifying the training they will accept.

Resources

Summary of training requirement for local officials (DOS)

Sample Town/Village Resolution for Annual Training for Planning Board and Zoning Board of Appeal Members:

- Sample Town/Village Resolution for Annual Training for Planning Board and Zoning Board of Appeal Members

Acceptable Training for Planning Board and Zoning Board of Appeals Members (DOS)

DOS Training Opportunities

Board member training opportunities:

- STC Annual Regional Leadership Conference
- APA NY Upstate Chapter
- Planning Fundamentals for Planning Board Members (Lincoln Institute of Land Policy)
- Ethic Standards for Planning Board Members (DOS)
- Training opportunities or materials (DOS)
- Dealing with Locally Unwanted Land Uses (DOS)
- Municipal Planning Series for Zoning Board of Appeals (Westchester County Planning Department, New York)

Official online Energy Guide available at [www.stcplanning.org](http://www.stcplanning.org) where all online resources are hyperlinked
A comprehensive plan (or “comp plan” in the past a master plan) develops a shared vision of what a community will look like in 20-30 years and then creates goals and policies to help achieve that vision. It is often used as a strategic tool to help a community guide development and investment decision to achieve a healthy and balanced community. Because conditions change over time, it is important for a town to revisit and update its comprehensive plan periodically as significant changes occur (every 5-10 years.)

Large scale energy development, like natural gas exploration, brings intense changes to communities, especially rural communities, that lack proper infrastructure to support such energy development. Communities that have an updated comp plan that describes with consensus, the community’s land uses, visions, goals, and strategic action plan possess a powerful tool of guidance during their decision making process. Intense energy development brings a variety of impacts that an updated comp plan with its organization and foresight will help combat.

What is a comprehensive plan?

What may a comprehensive plan address?

A comp plan identifies, organizes, and prioritizes community goals, objectives, and polices for the immediate and long-range enhancement growth and development of the community; existing and proposed land uses, and their intensity; agricultural uses, historical resources, cultural resources, natural resources, coastal resources and sensitive environmental areas; population, demographic, and socioeconomic trends; transportation facilities; utilities and infrastructure; housing resources and needs; infrastructure; other governmental plans and regional needs; economic development; proposed means to implement goals, objectives, and policies; and regular procedures for updating the comprehensive plan. As towns start preparing for natural gas development and other large scale energy development creating or updating a comprehensive plan is essential.

What are the benefits of a comprehensive plan?

What may a comprehensive plan address?

A comp plan provides a process for identifying community resources, long-range community needs, and commonly held goals; provides a process for developing community consensus; and provides a blueprint for future governmental actions.

Large scale energy development, such as natural gas or wind development, can threaten the dynamics and historic character of a community almost immediately. Having an official document of comprehensive goals, policies, and strategies will significantly benefit a community’s decision-making process by municipal officials. Not to mention including maps that document existing and future conditions of energy development.

What is a comprehensive plan?

What is the relationship between zoning and the comprehensive plan?

The town law gives special importance to its comprehensive plan by requiring that land use decision be consistent with the comprehensive plan. Town Law, Article 16 - §263 states that zoning regulations “shall be made in accordance with a comprehensive plan.” Therefore zoning regulates a community to ensure its shared vision and goals articulated in the comprehensive plan are maintained as development and growth occurs.

What its authority?

Town Law §272-a, authorizes town boards in NYS to create comprehensive plans. [Similarly: General City Law §28-a/ Village Law §7-722]

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What planning elements should be considered?

Energy development requires a comprehensive review of all the following elements: 1) urban areas and intergovernmental coordination, 2) housing, 3) transportation, 4) economics, employment, and tourism, 5) recreation, open space, and trails, 6) agriculture, 7) water and sewer services, 8) natural resources, 9) mineral extraction, and 10) renewable energy. A successful plan is one with the ability to keep its content on track, points towards community consensus, present existing condition, and projects a future the community agrees to build.

What does a comp plan look like?

Comp plans vary in detail, depth, and style. Each community has to decide what they want to achieve through their comp plan and organize it accordingly. Community participation is a large component to creating a comp plan and therefore the process is as important if not more then the end product. Residents understands and support a plan that they helped create, especially when they identify themselves as stakeholders. When a community takes ownership of a plan its objectives stand a greater chance of being implemented and their benefits realized.

Plans that succeed have a vested interested by their creators—the community’s residents and municipal officials. Therefore, not only is it important to find a sample plan for guidance, but learn the steps involved in making the plan. Visit the website of a highlighted municipality. Talk to people involved in creating the plan and if they have any insights or constructive comments to share.

Garfield County, CO has been highlighted in this guide, because their website has a detailed record of the process involved with their comp plan as well as a very simple and effective planning document that includes an energy development section to model after. Other more local comp plans have been highlighted.

Comp Plans Examples

Garfield County
Comprehensive Plan 2030,
Garfield County, Colorado is a good resource for comprehensive plan making when a community has to consider energy development and mineral extraction. This municipality has used comprehensive planning since 1968 and recently adopted their latest plan in November 2010; dedicating an entire section, Section 9, on mineral extraction and natural gas development.

Centre County
Comprehensive Plan 2010,
Centre County, Pennsylvania is actively trying to incorporate natural gas development in their planning documents and regulations; review related sections: mineral resources, land use, and energy conservation.

Town of Callicoon
Comprehensive Plan Update 2012,
the town of Callicoon, New York, has included a small section addressing the anticipated natural gas development and includes a community survey taken in 2008.
Adopting Zoning for the first time?

Most zoning laws in this region do not consider large scale energy development or the growth in industrial/commercial uses that service the energy industries. Zoning laws also lack “use definitions” that apply to energy development. Local officials should review their zoning laws to ensure they are effective in today’s terminology and uses. Communities that are considering adopting zoning laws for the first time should consider a more comprehensive and sustainable approach to their language and controls.

Zoning puts a community’s comprehensive plan to work. Zoning is law and contains regulations to implement the comprehensive plan and includes rules on allowed uses, setbacks, signs, parking, landscaping, environmental restrictions, density, site plans, and more.

Zoning is the process by which a community is divided into districts, or “zones,” each having a different set of uses, densities, dimensional requirements, and other development standards. Zoning helps protect public/private interests, preserve critical areas, promote orderly growth, and encourage development to occur at a rate and manner that the community desires.

Zoning is a process by which the residents of a local community examine what people propose to do with their land, and decide whether or not they will permit it. More importantly, zoning promotes the health, safety, morals and general welfare of the town. It is specific and regulatory and must deal with the present realities of the community. Zoning bylaws are the most practical means to implement the municipality’s comprehensive plan. Though the plan may recommend many desirable approaches to development, only those provisions incorporated in the bylaws are legally enforceable (Kalakowski v. John A. Russell Corporation [1979] 137 Vt. 219, 401 A.2d 906).

What is the authority for zoning?

New York Town Law §261 authorizes towns to enact zoning ordinances, providing: “for the purpose of promoting the health, safety, morals, or the general welfare of the community, the town board is hereby empowered by local law or ordinance to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes; provided that such regulations shall apply to and affect only such part of a town as is outside the limits of any incorporated village or city…” [Similarly: General City Law §20 (24, 25)/ Village Law §7-700]

Who is involved with zoning?

New York Town Law §267 (General City Law §81/ Village Law §7-712) describes three boards that are typically involved in the zoning process. The first is the legislative body (town board/village board/ city council), which enacts and amends zoning laws, and may also retain power to approve special use permits (discussed below). The second is the zoning board of appeals, which hears variance applications, and appeals from rulings of enforcement officials. The third is the planning board, which may be empowered to approve site plans, subdivisions, and special permits; Town Law §271 (General City Law §27/ Village Law §7-718).

What is the relationship of zoning to other laws?

Zoning, along with other appropriate tools, is used to achieve the vision of a community. It is through a comprehensive plan that the vision is clarified and the various implementation tools such as zoning can be coordinated. Ideally, a zoning ordinance rests on the visions, goals and policies of a community-adopted comprehensive plan. Therefore, zoning should be developed during or after a successful planning process has been completed.

Without the plan, developing the zoning ordinance will be more difficult and, once
Resource

Garfield County, CO Planned Unit Development, review PUD regulations of an energy impacted community in Garfield County, Colorado. The regulation includes general provisions, review process, and submittal regulations.

Guide to Planned Unit Development, this online guide describes when and how to use planned unit development and provides a planned unit development model local law for easy adoption.

Mixed use and high density

Traditional zoning separates uses from one another and allows only one use per district. In contrast, mixed-use zoning allows a district to have more than one use. For instance, a commercial/residential district could take the form of shops on the main floor with residences above, typical of many small town main streets that we see in our communities today. Mixed-use districts create vibrant areas and have been shown to increase property values.

High density is a term that sometimes makes people uneasy. However, what constitutes high density is different from one community to another; and can describe village setting density. High density in New York City is much different from high density in rural Upstate New York. For a lot of our communities, high density refers to our main streets or to our built up villages. We already have it and now we just need to decide if we want more of it in a centralized area. High density or concentrated development provides a number of benefits. For example, high density helps preserve farmland because houses that are closer together impact less land. High density can also save municipalities a fair amount of money. Houses or businesses that are close together mean a shorter distance for plowing and shorter distances to run water and sewer lines as well as reduced maintenance costs.

Mixed-use and high density development already exists in our communities. As communities, we just need to decide on whether we want more of it and where we want it to occur.

Establishing a PUD

Town Law §261-c: planned unit development zoning districts authorizes a town legislative body is hereby authorized to enact, as part of its zoning local law or ordinance, procedures and requirements for the establishment and mapping of planned unit development zoning districts. Planned unit development district regulations are intended to provide for residential, commercial, industrial or other land uses, or a mix thereof, in which economies of scale, creative architectural or planning
concepts and open space preservation may be achieved by a developer in furtherance of the town comprehensive plan and zoning local law or ordinance. [Similarly: General City Law §81-f/ Village Law §7-703-a.] The city of Corning, in south central NY has successfully used planned unit development in its historic Market Street area.

Incentive zoning

The purpose of the system of incentive (or bonus) zoning is to advance the community’s physical, cultural, and social policies in accordance with the community’s comprehensive plan and in coordination with other community planning mechanisms or land use techniques. Simply put, incentive zoning is where a local legislature provides concessions, such as increased density, to land developers in exchange for community benefits, such as a community park. When used properly the municipality and land developer can both benefit greatly. Authority to create incentive zoning can be found in General City Law § 81-d/ Town Law §261-b/ Village Law §7-703.

Floating zones

A floating zone is the same as a conventional zone. It describes the permitted uses, setback requirements, and other standards to be applied in the district. Unlike conventional zoning districts, however, the floating zone is not designated on the zoning map. Once enacted into law it “floats” over the community until, upon approval of an application, it is “brought down to earth” to be affixed to a particular parcel through an amendment to the zoning map.

For instance, a community may have a anti-industry policy and no industrial zone in its local ordinance. It may, however, be amenable to a high technology, low-impact industry under certain conditions. The floating zone allows this kind of control and flexibility. Floating zones add flexibility to an existing zoning law and enables it to accommodate new land uses. Some PUDs regulations are designed as floating zones. The authority of local governments to adopt floating zones was upheld in the Court of Appeals as the part of the municipal authority to divide a community into zoning districts. (General City Law §20 (24, 25)/ Town Law §262/ Village Law §7-702)

General standards

General standards are regulations that that apply equally to all districts within a zoning ordinance. In this way a parcel in a specific district will have to obey both the regulations of that district as well as the general standards. A common form of general standards is “development standards” which can deal with issues ranging from lighting to stormwater management. The authority of local governments to adopt general standards is similar to its authority to enact zoning districts. (General City Law §20 (24, 25)/ Town Law §261/ Village Law §7-700)

Special/ conditional use permits

A special use is one that is compatible with the uses allowed as-of-right in the zoning district but before it is permitted needs to meet certain requirements and/ or conditions. In NYS any use listed as a special or conditional use is a permitted use in that zoning district. A special use, for instance, could be a school trying to locate in a residential neighborhood. Before the school is allowed it will have to make sure to meet the municipality’s conditions. The purpose of the special/conditional use permit review process is to simply identify potential adverse impacts of the use on surrounding properties and the community, and impose reasonable conditions on the approval that mitigate the identified impacts.

Special use permits will prove useful when dealing with the energy industry’s secondary effects. Currently, local municipalities do not have any authority over well pads, but municipalities can regulate, to name a few, location of storage areas for pipes, vehicles and other equipment, temporary and long-term housing and workspaces for employees. These uses could be allowed as-of-right, without requiring any review or could be incorporated into the existing zoning as special uses, requiring review before they are permitted. In this way a community is able to better regulate.
the location and intensity of the use and in turn, better protect itself from potential negative impacts. The authority for special use and conditional use can be found in General City Law § 27-b/Town Law §274-b/ Village Law § 7-725-b

**Form-based zoning**

Form-based codes foster predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code. They are regulations, not mere guidelines, adopted into city or county law. Form-based codes offer a powerful alternative to conventional zoning.

Form-based codes address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. The regulations and standards in form-based codes are presented in both words and clearly drawn diagrams and other visuals. They are keyed to a *regulating plan* that designates the appropriate form and scale (and therefore, character) of development, rather than only distinctions in land-use types.

This approach contrasts with conventional zoning’s focus on the micromanagement and segregation of land uses, and the control of development intensity through abstract and uncoordinated parameters (e.g., floor area ratio (FAR), dwellings per acre, setbacks, parking ratios, traffic flow level of service (LOS)) to the neglect of an integrated built form. Not to be confused with design guidelines or general statements of policy, form-based codes are regulatory, not advisory. They are drafted to implement a community plan. They try to achieve a community vision based on time-tested forms of urbanism. Ultimately, a form-based code is a tool; the quality of development outcomes depends on the quality and objectives of the community plan that a code implements.

**Zoning and the energy industry**

Currently, local municipalities do not have the authority, through zoning or any other local regulation, to control the siting of gas well pads or utility scale wind farms (25 megawatts or greater.) However, local municipalities do have a great deal of authority when dealing with the energy industry’s secondary effects and uses.

Typically, there is an increase in residential, commercial and industrial uses that may require more innovative approaches than have been previously used. Lighting, noise, access, infrastructure, and integration with existing uses are all development issues that will have to be examined more thoroughly and incorporated into the review process. For instance, using zoning, a municipality can regulate the siting and sizing as well as the noise and light coming from equipment storage yards.

Similarly, through special use permits, a municipality can better deal with the energy industry’s well documented effect of increased temporary housing due to the influx of workers in an area with a limited supply of housing. Accordingly, communities, by reviewing their general standards and by applying the many forms of zoning described in this section, can put themselves in a position to mitigate any negative impacts while at the same time meeting the vision set forth in its comprehensive plan.

It should be noted that as time progresses, the New York State Department of Environmental Conservation (NYSDEC) may give more weight to local land use regulations. Recent news from NYSDEC states that proposed activities have to be identified as being consistent with local land use and zoning laws. It has also been said that if actions by energy companies are not consistent with local regulations, this would result in an additional, more in-depth review before a permit is issued. As such, while municipalities cannot regulate well siting directly, they may still have some influence over the process if they have the necessary regulations in place.

In order for a community to maintain consistence between NYSDEC, the energy
3. Zoning

Resource

Revised draft SGEIS (See chapter 8 of the preliminary),

Natural Gas Regulations & Development Projects in Garfield County, CO

Federal and State Regulation of Mobile Homes (useful for temporary man-camps that usually follow the energy industry).

Industries, the community regulations, and the community planning documents your municipality should consider revising their definition to include any new terms or uses that may be associated with new energy industries, their infrastructure, and their support services.

Also for both wind, natural gas, and sometimes for biomass development, there is an agglomeration of access road construction and site mobilization that depends heavily on local gravel operations. This can have a significant impact on the landscape and municipalities may have to adjust their zoning regulations to consider this impact.

Garfield County, Colorado, has created a guide that serves to unite any inconsistencies in terminology and may offer a starting point for revising zoning and land use definitions. An example: fresh water storage ponds, pipelines, natural gas processing treatment facilities, compressor stations, laydown yards, temporary employee housing / man camp, communication facilities, bioremediation land farm, drill cutting storage, or well pad site.

Natural gas developments, local governments’ roles, and the importance of planning

Implementing and updating local land use regulations, laws, and planning documents are key factors to make possible the participation of local governments in both the process of issuing permits for the natural gas drilling and High-Volume Hydraulic Fracturing activities, and the process of issuing permits to construct and operate major transmission fuel gas facilities.

According to the preliminary revised dSGEIS, when a applicant submits an application to drilling, local governments will be notified, but only when there local land use law, regulations, and official planning documents are in place and updated to address energy development.

A municipality is supposed to also be notified if there are any inconsistencies between the proposed application to drill and the communities local laws, regulations, and official planning documents. This strategy allows a municipality to take a proactive approach over a reactive approach, and hopefully less oversight would occur.

It may be possible for local governments to participate in the review process of a permit application by advising New York State’s Department of Environmental Conservation (NYSDEC) ahead of time of possible conflicts that may exist between possible drilling permits and existing regulations, laws, and planning documents. In this manner, the NYSDEC may decide when review certain applications that more environmental review is necessary to determine the possible impacts beyond the scope of the SGEIS.

In the same venue, having updated regulations and laws will assist other reviewing agencies of major transmission lines, pipelines, compressor stations, and other associated facilities needed for energy development to conform to applicable state and local regulations.

Local governments may also become interested parties and participate more intimately in the public hearings and review process. Overall, it has become evident that planning ahead is a key element that allows local governments to take part in the different decision-making processes regarding large scale energy developments; e.g. natural gas and wind development.
The wind, natural gas, and biofuels industries all depend on an array of local work sites, buildings, transmission lines, and other types of development, ranging from wind turbine pads to industrial yards to worker housing. Many of these developments will come before your local government in the form of a site plan application.

Site plan review is concerned with how a particular parcel is developed. A site plan shows the arrangement, layout, and design of the proposed use of a single parcel of land. Site plan review can include both large and small-scale proposals.

Site plan approval is a regulatory technique which requires municipal approval of the layout and design of development and involves the exercise of discretion by a municipal board to approve applications on a case-by-case basis, using general site design criteria set forth in the zoning ordinance or local law or in a site plan approval law.

A site plan review process reviews a site plan for specific types of development to ensure compliance with all appropriate land development regulations and consistency with the comprehensive plan. It may include a narrative and graphic forms that specifies the existing characteristics of a particular parcel of land, identifies its surroundings, and describes intended activities and their potential impact on the community.

The authority to require site plan review is found in the State enabling statutes. Site plan review may be incorporated into a local zoning ordinance, or may instead be adopted as a separate local law or ordinance. Town Law §274-a, General City Law §27-a, Village Law §7-725-a.

What is the relationship between site plan review & development controls?

Site plan review is a process that assists in (comprehensive) plan implementation. It is a supplemental process to other land development controls, such as zoning and subdivision regulations. It can help review land improvement requests that may not trigger a subdivision or zoning review.

What may a site plan review address?

It illustrates the intended design, arrangement, and uses of the land to be improved. It also describes the proposal’s physical, social, and economic effects on the community. A proper site plan should indicate features, such as, means of access, parking, landscaping, buffers, architectural features, location of structures, impacts on adjacent land uses, and other elements related to the health, safety, and general welfare of the community. The review process applies to both small and large scale proposals.

Negotiations may occur during the review process to minimize ecological disturbances, address parking and loading concerns, ensure pedestrian safety and the aesthetic relationship of the proposed structure to the site and surroundings. The site plan review process allows communities to analyze a development proposal in terms of its impacts on local growth and the need for facilities and services.
What are the benefits of a site plan review law?

Site plan review (approval) is used to ensure that new development will be in harmony with the existing area in which it is located and important resources will be protected. The purpose of site plan review is to review site plans for specific types of development to ensure compliance with all appropriate land development regulations (LDRs) and consistency with the Comprehensive Plan.

What planning elements should be considered?

Legal data

1) name and address of applicant and authorization of owner if different from applicant; 2) name and address of owner(s) of record, if different from applicant; 2) name and address of person or firm preparing the plan and map; 4) ownership intentions, such as purchase options; 5) current zoning classification of property, including exact zoning boundary if in more than one district; 6) property boundary line plotted to scale; distances, angles and area should be shown; 7) north arrow, scale and date; 8) locations, widths, elevations and names of existing and proposed adjacent streets; 9) property lines and names of owners of adjoining parcels; 10) location, width and purpose of all existing and proposed easements, set-backs, reservations and areas dedicated to public use within and adjoining the property; 11) description of all existing deed restrictions or covenants applying to the property; and 12) record of the application and approval status of all necessary state and county permits.

Impact of proposal on environs

1) relationship to adjacent and nearby land uses, both public and private; 2) relationship to existing and proposed traffic patterns; 3) relationship to existing and projected water supply, sewage disposal and similar service capabilities; 4) relationship to the community's ability to provide adequate recreation, education, fire protection and similar facilities and services to its residents; 5) visual compatibility with surroundings; 6) effect on air and water quality standards applicable primarily to industrial site development plans; 7) effect on energy consumption and conservation. Draft Environmental Impact Statement (DEIS) and Environmental Impact Statement (EIS) will be required if the reviewing agency deems the proposal to be significant pursuant to the State Environmental Quality Review Act (SEQRA).

Natural features

1) Geologic features, such as depth to bedrock and the location of rock outcrops; 2) topographic features, including a map showing existing contour intervals of no more than five feet. Two-foot contour intervals should be required if the topography is relatively flat. Areas of steep slopes should be delineated as necessary; 3) vegetative cover, including existing wooded areas, significant isolated trees and similar features; 4) soil characteristics, such as load bearing capacity and drainage capacity, 5) hydrologic features should include drainage and runoff patterns, flood hazard areas, wetlands and depth to groundwater.

Existing development and infrastructure

1) Location and dimensions of major buildings and structures; 2) location and width of roads and paths, including site access; 3) location, size and flow direction of sewers, water supply lines and culverts. Major electric, gas and telephone lines and appurtenances should also be shown; 4) location of other existing development and adjacent uses, including parking and loading areas, fences, trees and landscaping.
Proposed development

1) Grading and drainage plan showing proposed topography at appropriate contour intervals. This information can be combined with the map of existing topography if it can be clearly depicted; 2) location, proposed use, height, dimension and architectural features of buildings and other structures, such as retaining walls, fences, outdoor storage tanks, air conditioning units and waste disposal units; 3) location, proposed use, design and construction materials of improvements not requiring structures, such as parking, loading, and outdoor storage areas; 4) location and arrangement of site access and egress, including all paths for pedestrian and vehicular travel within the site. Information should include profiles and cross-sections of roadways and sidewalks showing grades, widths and location and size of utility lines; 5) location and size of water and sewer lines and appurtenances. Any means of water supply or sewage disposal other than extensions of existing systems should be described, including location, design and construction materials; 6) location, design and construction materials of all energy distribution facilities, including electric, gas and solar energy; 7) location, size and design of all outdoor lighting facilities and public address systems; 8) location, size, design and construction materials of all outdoor signs; 9) general landscaping plan and planting schedule, including the treatment of buffer areas and the location and types of trees to be planted; 10) estimated project construction schedule with possible phasing plan for large projects; 11) additional specifications for materials; 12) performance bond, amount, completion schedule, public improvements covered, inspection and bond approval.
5. Subdivision

What are subdivision regulations?

Subdivision activity may increase with large scale energy development, such as natural gas development that is present in a region for a number of years. The subdivision process controls the manner in which land is divided into smaller units, usually individual building lots. Subdivision regulations should ensure that when development does occur, streets, lots, open space, and infrastructure are adequately designed and the municipality’s land use objectives are met.

What is a subdivision?

Subdivision is defined in the State enabling statutes as a division of any parcel of land into a number of lots, blocks, or sites as specified in a local ordinance, law, rule, or regulation, with or without streets or highways, for the purpose of a sale, transfer, or ownership or development. The term “subdivision” may include any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the office of the county clerk or register of the county in which such plat is located. Subdivisions may be defined by local regulation, as either “major or minor”, with review procedures and criteria for each set forth in such local regulations.

The State enabling statutes contain specific procedures for the review of both preliminary and final plats. Most municipalities use a two-step process. The two-step process should include the submittal of a preliminary plan showing the layout to lots, roads, open space areas, utility and drainage facilities, and approximate dimensions including preliminary plans and profiles. The final plat should present the subdivision layout and other elements contained in the preliminary plat in greater detail, and should incorporate those changes required as the result of preliminary plat approval. Town Law §276 & 277, Village Law §7-728 & §7-730, General City Law §32 & 33.

Subdivision Review is a critical tool in a municipality’s land use management scheme, and has important consequences for overall municipal development.

Every community should therefore consider it imperative to determine whether roads, water systems, recreation areas, and other services or amenities will be installed, and whether they will be privately or publicly owned. If such infrastructure is not to be installed prior to the sale of lots, provisions should be made by way of performance guarantees that require the subdivider to complete all common improvements to municipal standards prior to selling lots and constructing buildings.

Cluster development

Cluster development (or Conservation Subdivision) is a technique that allows flexibility in the design and subdivision of land. It may provide for greater open space and recreational opportunities, and can result in reduced development expenses relating to roadways, sewer lines, and other infrastructure, as well as to lower costs in maintaining such infrastructure.

The purpose of cluster development is to protect farmland and/or natural resources while allowing for the maximum number of residences under current community zoning and subdivision regulations. In some cases a greater density (density bonus) may be offered in the local ordinance to encourage this approach to residential development planning.

An interesting feature of cluster development is that they are density neutral (except where a density bonus is offered), meaning a cluster development maintains the same level of density as a conventional subdivision. Conventional lot-by-lot subdivisions spread development evenly.
throughout a parcel without consideration to environmental or cultural features.

The primary difference between conservation subdivisions and conventional ones involves the location of the homes on one part of the parcel, i.e., the homes are clustered. Other changes involve management and ownership of the land that has been left for preservation.

Cluster development in conjunction with the approval of a subdivision plat, authorize the transfer of density of a given parcel and by so doing modify the dimensional provisions of the municipality’s zoning or subdivision regulations.

Cluster development has enormous potential to achieve municipal planning objectives calling for the protection of open space or areas desired to be kept undeveloped, such as historic sites or groupings of structures, or scenic views. Its potential to assist a community in maintaining its traditional physical character while at the same time providing for new development is increasingly being utilized by municipalities.

Approving cluster development

“Cluster Development” shall mean a subdivision plat or plats, approved pursuant to this article, in which the applicable zoning ordinance or local law is modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands. Town Law §278, Village Law §7-738, General City Law §37

Subdivision law is not zoning

Subdivision regulations are an entirely separate land use regulation from zoning.

Zoning regulates the use of the land, the density of use, and how structures are sited or located on a given parcel. Subdivision regulation addresses the creation of parcels from larger parcels of land. It has nothing to do with use, density, or how structures are situated on parcels.

Subdivision control regulates how land is split into lots; the regulation is of two things: the layout of the lots themselves, and the improvements that will be installed to serve the new lots. Its concern is with the problems that are likely to arise when land is split into smaller parcels: adequate roads, parkland, water, sewage disposal, drainage, curbs, and the like. Properly used it will complement zoning regulations. Improperly used it creates havoc on the comprehensive plan, on zoning, and the future development of the municipality.

Resource

New York State Realty Subdivision Laws: Article 11, Title II Public Health Law and Article 17, Title 15 Environmental Conservation Law

Caton’s Conservation Subdivision regulation

Building Permits Campbell, private right-of-way issues and legal guidance, New York Zoning Law and Practice Report: Town Law Section 280-A, Requirements and Remedies (March/April, vol.11, no.5)

REALTY SUBDIVISIONS: frequently asked questions (FAQ)
What environmental review to consider?

There is an array of environmental impacts and risks from energy development that require a level of review and control to assess the impacts and manage the disturbances to the environment and community.

Natural gas and wind development bring heavy industrial activity and construction to rural communities in the southern tier region. Environment impacts to consider include: land disturbance; stormwater management; disposition of solid wastes from drilling and work over operations; contaminants in produced water; contaminants in cuttings; drilling mud reserve pit issues; air emissions; release of contaminating fluids; subsurface migration of contaminants into aquifers; remediation methods; drilling in ecologically sensitive areas; idle wells (not producing, but not yet plugged); and orphan wells (abandoned, owner not traceable or insolvent.)

State Environmental Quality Review Act

The New York State Environmental Quality Review Act (SEQR or SEQRA) requires state and local agencies to consider impacts on the environment when making discretionary decisions to approve, fund or undertake an action. SEQR has been in effect in NYS since 1978, and the Department of Environmental Conservation has an extensive section of their website devoted to how to apply SEQR, as well as how to use the review process effectively in local decision-making; refer to left panel for additional SEQR online resources.

There are many misunderstandings about the SEQR process, but perhaps the most significant is that SEQR is designed to stop specific actions. SEQR is not designed as a “yes” or “no” process, but instead helps agencies and applicants identify potential significant environmental impacts and to then mitigate those impacts. An agency might deny a permit based on issues identified in the SEQR that cannot be mitigated to their satisfaction.

NYS DEC will be the lead permitting agency in a high-volume hydraulic fracturing permit process, and because of this status, it is leading the review of the 1992 Generic Environmental Impact Statement (GEIS) that the state created to put the general permitting structure in place. The review and modification of this permit process is taking place through the Supplemental Generic Environmental Impact Statement (SGEIS). The creation of the permitting process is a discretionary action, and as such NYS must show compliance with SEQR, much as a local municipality would need to show compliance with the process in adopting new land use regulations.

Local agencies will not be directly granting permits for drilling, but applications to DEC or activities related to drilling may require local involvement in a SEQR process. At the beginning of the process, two significant decisions need to be made. First, is the action subject to review under SEQR? Second, if the action is subject to review, then what agency will lead the process? Some decisions on proposed actions are not discretionary, and so they are not subject to SEQR. Some are discretionary, but are already determined to have no significant impact on the environment. Others will be subject to review. One agency needs to lead the entire review process in a way that informs the public and all involved agencies, and that does not split or “segment” the review in a way that could lead to missing the full potential impact of the proposed action. This body is referred to as the “lead agency.”

Granting of a drilling permit under the process outlined in the SGEIS will not be subject to an individual or second SEQR,
unless specified in the final rules (some sites may be deemed sensitive enough to require a site-specific environmental review). NYS DEC, as lead agency, will have already determined that SEQR requirements are met by the conditions of the GEIS and the SGEIS. Very few discretionary decisions are included in the “no impact,” or Type II list for SEQR. A list of these “Type II” actions are listed in the regulations, and can be found at the DEC website in the text of 6 NYCRR Part 617.5; refer to SEQR online resource side panel.

All other actions are categorized into either Type I actions or Unlisted actions. Criteria for deciding between these categories are also found in the text of the regulations.

For actions related to drilling, such as locating compressor stations and pipelines, a new SEQR may apply, and the lead agency may be a local or state body. Some proposals for related developments, such as housing/man-camps, equipment storage yards, hotels and/or new businesses will fall under local permits. For these projects, a municipality could be the best choice for lead agency before they issue a permit under their land use regulations. When determining which body will be the lead agency, NYSDEC advises:

If only one agency is approving, funding or directly undertaking an action, that agency is automatically the lead agency. If there are two or more involved agencies, the involved agencies must agree on a lead agency within 30 calendar days. If any involved agency desires to be lead agency, it can indicate in the coordination request its willingness to act as lead agency, by stating that if no response is received within 30 days, it will assume the role of lead agency.

SEQR is an important tool that municipalities use to mitigate or adjust to secondary developments induced by drilling activities. As lead agency, the municipality retains the full ability to ask an applicant to quantify traffic, water quality, noise, lighting, air quality and other impacts, and to work to mitigate these impacts. In most cases, however, SEQR will not apply if there is no local discretionary decision. If a town or village has no applicable local land use laws, then they cannot use SEQR to identify and avoid these impacts.

**Stormwater runoff**

Stormwater is water that originates during precipitation events. It flows from rooftops, over paved areas and bare soil, and through lawns and forests. Because this water can pick up contaminants, the quality of runoff is affected by activities that lie in the path of the flow. Water that does not soak into the ground becomes surface runoff, which either flows directly into surface waterways or is channeled into storm sewers that eventually discharge to surface waters. In addition to increasing the potential for polluted runoff, development activities can also increase the volume and intensity of runoff, which may contribute to increased erosion and flooding.

Stormwater management is an important issue for energy development because of the disturbances caused by construction activities and the ongoing potential for contamination during production. Best management practices (BMPs) can be used to reduce the potential for contamination of runoff and the impacts from land use changes. New York State regulates stormwater runoff from both construction and industrial activities through general State Pollutant Discharge Elimination System (SPDES) permits. A new SPDES general permit is being developed for stormwater discharges associated with high-volume hydraulic fracturing. Supporting activities will continue to be covered under existing state permits.
6. Environmental Review

**Stormwater Pollution Prevention Plan (SWPPP)**

All NYS stormwater permits require the development of a Stormwater Pollution Prevention Plan (SWPPP) specifying how erosion and sediment will be controlled during construction and (if required) the practices that will be used to permanently manage water quality and water quantity from the site (called post-construction stormwater management controls). The SWPPP for industrial activities must also address potential sources of pollution during industrial activities. Although the SWPPP is developed for a state permit, it provides an opportunity for local communities to become involved in the state permitting process.

The 2010 “NYS Stormwater Management Design Manual” includes new requirements for stormwater management planning to develop a strategy for avoiding, reducing, and mitigating runoff impacts from the proposed project. The SWPPP must now include documentation of a five step planning process. As part of site planning (Step 1), “the designer should check with the municipality to determine if there are local laws and ordinances that regulate wetlands, stream buffers, forest or habitat protection, erosion control or grading. The designer should also consult the municipality for laws relating to conservation or cluster design, roads, driveways and parking lots to determine the level of flexibility in reducing impervious surfaces.” This consultation provides an opportunity for municipal involvement in the site planning process.

Although this is a state permit, it is often beneficial for the municipality to review planning aspects of the SWPPP (in addition to any engineering/technical review). It is recommended that the municipality request the draft SWPPP and verify that runoff reduction proposals do not conflict with local codes. The SWPPP should include a narrative description of the stormwater planning process that enables evaluation of the rationale for selection of the proposed design over other possible options. Any concerns about this justification or the consistency of the proposed project with other community objectives can be communicated to the NYSDEC for consideration as part of their permit and project oversight responsibilities.

**Local stormwater regulations**

Municipalities may enact local requirements for runoff control and/or erosion and sediment control. In fact, eleven municipalities in the Elmira area are required to regulate stormwater as part of their Municipal Separate Storm Sewer System (MS4) permits. These MS4 municipalities must enact and enforce local stormwater management standards that are at least as stringent as the state standards. For projects covered by the NYS Stormwater Construction permit, the MS4 must review and accept the SWPPP prior to authorization by the state. For natural gas projects covered under the proposed high-volume hydraulic fracturing permit, MS4s are not expected to have review or enforcement authority. However, local regulations can be a valuable tool for increased local control of runoff from other construction activities that support this industrial development. Drainage and stormwater management provisions can be enacted as a stormwater local law or incorporated into other regulations.

Municipalities should also review their land use regulations for compatibility with current NYS stormwater management standards. Existing drainage requirements that are based on prior management approaches may be inconsistent with current NYS standards that emphasize runoff reduction. Other local regulations, such as parking requirements and road/
driveway standards, may warrant revision to facilitate the use of green infrastructure practices for reducing the amount of paved areas. New provisions can also be enacted to facilitate site planning strategies for avoiding runoff impacts, such as stream corridor protection requirements and cluster development. STC will assist municipalities with this review of local regulations, as resources permit.

Floodplains

NYSDEC proposes to require that high-volume hydraulic fracturing not be permitted within 100-year floodplains. However, this does not preclude the siting of conventional wells and supporting activities in floodplains. Each municipality is responsible for regulating development within areas mapped as having a 1% or greater probability of being flooded in any given year (e.g. the 100-year floodplain indicated on Flood Insurance Rate Maps). Regulation of development in these high hazard areas is intended to ensure that new development is (1) reasonably safe from flood damage and (2) will not result in physical damage to other property. Local regulations are based on the model law provided by the state. However, municipalities may include higher standards that increase safety, protect property, or preserve natural floodplain functions. Flood damage may also be reduced by regulating flood-prone areas that are not identified as 100-year floodplains. One way to achieve this is through stream setback requirements.

Aquifer protection

When groundwater supplies become polluted, the process of cleaning up the contaminants can be technically difficult and extremely expensive. The source areas for municipal water supplies are a particular concern. The draft SGEIS includes numerous provisions for preventing the release of contaminants and protecting groundwater resources. This includes setbacks from municipal and private water supplies and prohibition of surface drilling within 500 feet of a primary aquifer. (Primary aquifers are highly productive aquifers that are being used as sources of water supply by major public water supply systems.) In addition, drilling within 500 feet of a principal aquifer would require a site-specific SEQR review and an individual SPDES permit. (Principal aquifers are those that are potentially highly productive, but are currently less heavily used.) These provisions may be subject to reconsideration after two years.

Stream setbacks

Streams are active systems that cause flooding and erosion of adjacent areas. Maintaining a vegetated buffer adjacent to streams and lakes provides multiple benefits for water quality, stream functions, and wildlife, while also reducing the potential for damage to developed areas. The DSGEIS recommends that well sites be setback 150 feet from surface waters and requires site-specific SEQR for any proposed well pad within 10 feet of a stream, storm drain, Lake, or pond (subject to reconsideration after two years.) Additional protection of stream corridor functions and water quality can be achieved by including stream setback requirements in municipal land use regulations.

Resources

Aquifer Projection District, Town of Virgil, NY
Aquifer Protection/Overlay District, Region 2, New York
New York Law Subdivision Regulations, Recreational Uses, EPA Region 2, Municipality- Town of Cortlandt Aquifer Protection District
Aquifer Protection/Overlay District, Region 2, New York, Aquifer Protection Zone Town of Bedford
EPA Regulation of Oil and Gas Construction Activities

Official online Energy Guide available at www.stcplanning.org where all online resources are hyperlinked
7. Regional Resources

Chemung County

Chemung County Planning Department

Services provided

- Training: (in conjunction with the NYDOS) sponsor annual land-use training seminar for municipal officials, planning boards, zoning boards of appeals, code enforcement officers, attorneys, and elected officials.
- Planning assistance: comprehensive planning, permitting process, local land use laws, and economic development/general governmental planning support services.
- Grant Assistance: grant writing, grant administration/regulatory coordination.
- Geographic Information System (GIS) Support: provides maps and mapping/data services whenever requested by county departments/legislature. Provides limited map and GIS products requested by local governments, state agencies, consultant firms, economic development agencies, and community service organizations.
- Inter-municipal Governmental Coordination Assistance
- Assistance with General Municipal Law 239-M (GML referral): provides technical assistance to the County Planning Board with review and recommendation(s) for certain proposed municipal planning and zoning actions subject to the provisions of General Municipal Law, Section 239-m.

Chemung County Executive’s Advisory Commission on Natural Energy Solutions

The Advisory Commission was formed in April of 2010 to explore the impacts and opportunities associated with natural energy issues. The group’s main focus at this time is to identify key issues, research facts, and review and propose public policy regarding natural gas exploration and provide credible information to the County Executive, the County Legislature and the public at large.

The Commission’s nine sub-committees are focusing on business opportunities and workforce development, environmental impacts and water quality, law enforcement, public safety and roads, planning and zoning, and outreach and education. The full commission meets bi-monthly with committee chairs providing updates to the group. The sub-committees meet more often, as needed, based upon their individual tasks. A website was developed in September of 2010.

Milestones

- Established a website
- Passed official recommendation advising towns to enter a road analysis study
- Trained a deputy to enforce truck/vehicle regulations
- Firefighters have received training specific to gas well emergencies
- Energy commission members attended workshops, panel discussions, and information sessions for the past several years
- EMC in conjunction with Elmira college conducted a water quality baseline study for methane and other related elements
- Mt with Casella to gather information on the safety of drilling cuttings and related materials
- Submitted comments NYSDEC on the dSCEIS in 2011
- Assisting in developing a single point of entry, an office to be located in Elmira, to assist municipality and the industry in effectively coordinating the expected energy development in the county.
Chemung County Environmental Management Council (EMC)
The Chemung County Environmental Management Council (EMC) is a voluntary advisory council appointed by the county government. Its mission is two-fold: to advise the county government and to provide a liaison between the community and the county government. Being solution oriented, the EMC strives to affect environmental improvements within the county. EMC programs often take the form of studies that provide recommended courses of action for decision makers.

Schuyler County
Cornell Cooperative Extension of Schuyler County

Services provided
- **Extension Resources**: provide municipalities with technical briefs, informational handouts, training/assistance to municipal boards. Identify available resources, including: access to interns, Cornell workshops, and research project participation.
- **Training**: evening seminars and programs developed cooperatively with Cornell University and other planning departments/agencies.
- **Planning Assist**: comprehensive plans, land use regulations, board procedures, and permitting processes.
- **Grant Assistance**: identify appropriate funding sources for projects and providing data demographic information for grant applications.
- **Geographic Information System (GIS) Support**: aerial imagery, various layers of data, and encourage municipalities to use GIS to make better plans/decisions.
- **General Municipal Law 239-M (GML referral)**: assist communities with completing GML 239 referral forms. Provide technical assistance to the Schuyler County Planning Commission, the entity tasked with reviewing GML 239 referrals.

In close cooperation with the Schuyler County Legislature, the Planning and Community Development program at Cornell Cooperative Extension Schuyler County assists county and local governments with land use and community development planning. We encourage residents to explore and shape their environment and community.

Schuyler County Energy Task Force
The mission of the Schuyler County Task Force on Energy Development Issues is to protect the quality of life and infrastructure in Schuyler County by providing information and recommendations to local government officials and communities on energy development.

**Milestones**
- Established a website
- Released informational guidance sheet, Managing your Private Water Supply Related to Natural Gas Development in Schuyler County (rev. June 2012)
- Hosted a task force intern for the summer of 2011
- Surveyed task force members and municipal officials to create a focused, concise resource binder/resource suite to help municipalities with energy development
- Submitted comments to NYSDEC on dSEIS in 2011
- Towns have signed with engineering firms for assistance with road assessment and Road Use Agreements (RUAs)

Schuyler County Environmental Management Council (EMC)
The Schuyler County Environmental Management Council (EMC) was established in 1974 to foster unified action on environmental problems among local governments and among public and private agencies and organizations.
7. Regional Resources

Steuben County

Steuben County Planning Department

Services provided

- **Training**: evening seminars – various topics and speakers; self-study course - based on NYPF’s “Short Course” book; and programs developed cooperatively with other planning departments or agencies.
- **Planning Assistance**: comprehensive plans; land use regulations; board procedures; and permitting processes, including SEQAR assistance.
- **Grant Assistance**: finding appropriate funding sources for project; grant writing; providing data demographic information for grant applications
- **Geographic Information System (GIS) Support**: multiple layers of data available for mapping; development of new map layers when needed Pictometry™ and other aerial photography
- **Inter-municipal Governmental Coordination Assistance**
- **Assistance with General Municipal Law 239-M (GML referral)**: evaluate county-wide or inter-municipal impacts; planning department has some has formal agreements with municipalities to exclude certain actions, which have been determined not to have inter-municipal or county-wide impacts, from the GML 239-m referral process.

Steuben County Natural Gas Task Force

The Steuben County Natural Gas Task Force was formed in 2010 to address natural gas development related impacts on County government operations and make best use of opportunities and to assist local governments and other agencies with impacts or opportunities. The Task Force is chaired by the County Administrator and overseen by a Steering Committee. Sub-committees of the Task Force include Housing, Public Safety, and Roads & Infrastructure.

The Task Force and its subcommittees meet on an as-needed basis. Members of the public are welcome to attend meetings.

To date, the Task Force has served a planning function and produced such documents as a model road use agreement and a model site plan review law. It is anticipated the Task Force’s role will evolve when the natural gas industry becomes more active in the county. The Task Force is already taking steps to track the industry and make that information readily available. In addition to serving as an information clearinghouse, the Task Force may be the ideal body to communicate and coordinate among the many municipalities in the County.

**Milestones**

- Established a website
- Hold multiple monthly public meetings
- Completed memorandum reviewing the Thirty Day Limit on Occupancy Tax or Room Tax
- Completed a county/town maintenance agreement (RUA)
- Completed a radio active study, Marcellus Shale Evaluation, on drill cuttings risk to county landfill
- Assisted in passing a housing resolution
- Amended the counties site plan review law
- Held educational forums for town
supervisors, public safety officers, and planning board officials.

- County Planning department is assisting camping/RV parks on possible impacts by the natural gas workforce.

**Steuben County Environmental Management Council (EMC)**

Established by the Steuben County Legislature September 20, 1971, pursuant to Environmental Conservation Law Article 47. The council advises the County Legislature on environmental matters, provides information to the public on environmental issues, hosts informational programs on a variety of environmental topics, and maintains information regarding the state of the county’s environment and natural resources.

Members are Steuben County residents appointed by the County Legislature for two-year terms. The Council may have up to 20 members.

The council’s regular meetings are on the first Thursdays of January, March, May, July, September, and November at 7:00 p.m. at the Steuben County Office Building in Bath NY. The meeting schedule is subject to change – check with the County Planning Department for schedule updates.

**Regional efforts**

**Southern Tier Central Regional Planning and Development Board (STC)**

STC's constituents represent all aspects of life in the Southern Tier. STC serves 79 units of local government (counties, cities, villages, towns), not for profit organizations, economic development agencies, the private sector, educational agencies, and more.

Regional agencies work with STC for Appalachian Regional Commission and Economic Development Agency funding; individuals rely on STC for census information; watershed organizations seek planning assistance; STC provides energy development planning assistance, coordinates projects, and information concerning Marcellus Shale natural gas exploration, as well as, provides ongoing support and technical assistants for the county natural gas task forces; local governments and agencies also contract with our computer assistance program.

STC has a program designed to help local government and one to plan for flood recovery and mitigation. We have an interactive videoconferencing system that is available for many purposes. Our GIS system provides mapping and analysis utilizing tax parcels, geography, and Census and land use data.

STC also serves Chemung, Schuyler, and Steuben Counties, and has staff available to anyone needing technical assistance with planning issues.

**Milestones**

- Completed a tourism study, *Natural Gas Drilling in the Marcellus Shale: potential impacts on the tourism economy of the Southern Tier*
- Participated in a regional study, *Economic Implications of Marcellus Shale Natural Gas Development, Understanding Potential Impacts on Tourism, Agricultural and Housing*
- Developed, *Planning Tools for Energy Development Checklist*
- Published, *Municipal Guide: for Energy Impacted Communities*
- Southern Tier planning departments with support from Cornell Cooperative Extension hosted Marcellus shale educational roadshow presentations for municipal officials.
- Assisted and updated communities’ comprehensive planning documents with energy planning sections.

**Resources**

**Regional Studies:**

- Natural Gas Drilling in the Marcellus Shale: potential impacts on the tourism economy of the Southern Tier
- Green Choices: Working papers/policy briefs

Official online Energy Guide available at [www.stcplanning.org](http://www.stcplanning.org) where all online resources are hyperlinked.
8. Other Considerations

What are other regulating tools to consider?

**Industrial development agencies (IDAs)**

According to the Office of the Comptroller’s 2006 report on Industrial Development Agencies IDAs are, “public benefit corporations originally authorized by the Industrial Development Agency Act of 1969 and governed by the provisions of Article 18-A of the General Municipal Law.” The general public purpose of all IDAs in NYS is stated in the enabling legislation as, “to promote, develop, encourage and assist in acquiring, constructing, improving, maintaining or equipping certain facilities, thereby advancing the job opportunities, health, general prosperity and the economic welfare of the people of New York.” IDAs are authorized to issue bonds and to grant sales, mortgage and property tax exemptions to further their public purpose & mission.

**Host community agreements**

A Host Community Agreement (HCA) is a tool used by local governments and the companies interested in developing certain activities with probable high environmental and economic impact to establish a framework for future collaboration, mitigate the risks, take advantage of the economic opportunities, and coordinate communications. Even though there are not explicit provisions allowing local governments to sign this kind of contracts, it has become evident their usability to enforce several of their actual governmental, police, and property powers. Indeed, local governments have been using them to establish agreements with the wind energy industry and landfill development companies, but it also could be a powerful instrument to do so with enterprises that are looking forward to extract natural gas from the Marcellus and Utica Shale areas in the state of New York.

**Pipeline primer**

The country has a very elaborate system of natural gas pipelines and New York State’s natural gas development will be very dependent on how and in what quantity gas companies can get their product to the market. The pipes vary in size. Some are large interstate pipelines. Others are much smaller, gathering lines, that transport gas from the well head to the transmission lines. Compressor stations are located at intermediate locations on the larger pipelines to pressurize the gas and help move it along.

New pipeline construction will inevitably take place and certain environmental impacts will have to be addressed, especially when the lines run through forested areas requiring 70-130 foot wide easements for construction and maintenance.

Determining where all current gas pipelines exist is difficult, because not all pipelines have a regulatory authority. The US Department of Transportation regulates the larger interstate pipelines that cross state boundaries; e.g. the Transcontinental Gas Pipelines Company system. The Federal Energy Regulatory Commission (FERC) is an independent regulatory agency within the US Department of Energy that regulates the bulk transmission and sale of natural gas for...
Basic Flow Chart & Oversight of Natural Gas Pipeline Infrastructure in NYS

(Read top to bottom. All regulators or statutory agencies are listed on the left with colors designating authority depicted on chart. Changes in pipeline designation are shown by line thickness, color, and labels. Photos represent situations where pipeline crossings have additional oversight and/or statutory parties involved.)

Unregulated pipelines
In New York State pipelines less than 1000 ft and/or pipelines carrying less than 125 psi of natural gas; (some local municipalities are considering drafting regulations to regulate these minor gathering lines currently unregulated.)

New York State Department of Environmental Conservation (NYSDEC)
Regulates wetlands & stream crossings of all pipelines.

New York State Public Service Commission (NYPSC)
Regulates all gathering lines and intrastate lines that are greater than 1000 feet and/or greater than 125 psi, along with any associated compressor stations, and storage facilities.

Agriculture (AG) & Markets
Is a statutory cooperative party that works in concert with NYPSC by providing technical assistance to agencies, farmland owners, and gas companies where gas pipelines affect agriculture resources.

New York State Department of Transportation (NYS DOT)
Is a statutory cooperative agency that works in concert with NYPSC when pipelines cross highways.

New York State Historic Preservation
Is a statutory cooperative agency that work in concert with NYPSC when pipelines cross historic sites.

Federal Energy Regulatory Commission (FERC)
Is an independent regulatory agency within the United States Department of Energy that regulates the bulk transmission and sale of natural gas for resale in interstate commerce.


Chart prepared by Meghan Thoreau Jacquet
For more information please contact Meghan Thoreau at 607-962-5092 | planner@otyr.com | www.stcplanning.org

Official online Energy Guide available at www.stcplanning.org where all online resources are hyperlinked
8. Other Considerations

In recent years, municipalities with energy development have begun mapping known pipelines that cross their boundaries, regardless of jurisdictions, to get an understanding of the extensive system of pipes that lay beneath their ground.

The role of state severance taxes ¹

A severance tax is a tax imposed on the value of nonrenewable natural resources that will be used outside the state from which they are extracted. Severance taxes are instituted to cover costs associated with resource extraction and to compensate the state for the loss of a non-renewable resource. With the exception of New York and Pennsylvania, all significant producing states impose a severance tax on fossil fuel extraction. Reports released by the Independent Petroleum Association of America, the national association representing U.S. independent oil/natural gas producers, prepare the industry to be responsible for these taxes. When towns “boom” as a result of energy extraction, there are increased job opportunities and a growing population. Along with this short-term growth come increased public costs: for planning & zoning and other administrative services, for intensified road traffic and reconstruction, and for increased demands on schools, social services and public safety. These costs are predominantly paid for by state, county, and municipal governments.

When natural resource extraction ends, communities face different challenges from the “bust”: a decreased population and tax base, for example. The public costs associated with extraction are usually covered through taxation of the extracted resource via a severance tax.

Covering public costs

Studies of severance tax policy consistently make the following recommendations to insure that states cover the costs of drilling and insure long-term economic viability in drilling regions.

- Create a tax that effectively pays for the short-term and long-term costs of drilling. States can impose a severance tax without risk of reducing production or industry jobs. If a state has a severance tax that is too low, shale gas extraction will require a significant amount of additional government services without commensurate fiscal benefits.

- Distribute tax revenue predictably and fairly between state and local governments. There are many ways to allocate revenue that are aligned with the costs of drilling. Regardless of the exact distribution, the primary purpose of a severance tax is to cover costs born by the local and county governments.

- Limit deductions and exemptions. Many states have relatively high tax rates but so many tax loopholes that the effective tax rate does not cover the cost of administering it, nor the short and long term costs of drilling.

For example, Colorado, the 6th largest state producer of natural gas, has a tax rate set on a sliding scale between 2-5%. The state subtracts property tax from the taxable value and exempts certain wells from taxation. As a result the realized severance tax is between 2.5-0.3% each year. Constructing a tax that is straightforward and simple makes compliance easier for gas producers and tax officials. Because the structure of the tax determines how volatile it will be, exemptions and loopholes should be minimized.

- Establish a Permanent Fund. A Permanent Fund is the most effective way to promote long-term economic development. For example, every state in the intermountain west invests in a permanent find. The permanent fund serves to protect the state against future recessions, yearly revenue volatility, and to ensure ongoing fiscal benefits from the depletion of a non-renewable natural resource.

**Marcellus Shale and the property tax**

The Real Property Tax Law (RPTL) provides a uniform, statewide method of valuing oil and gas producing properties for real property tax purposes. It mandates the assessment of oil and gas properties in production separately from all other interests in the property (e.g., land, buildings). A story in the April issue of The Monitor noted that ORPS’s Office of Counsel had addressed questions concerning the treatment of short-term leases of the rights to search for and extract natural gas. The particular questions concern leases for five-year periods. These leases can be for as much as $5,000 per acre, a price far in excess of what land similar to the leased land had sold for previously. The leases also contain a royalty payment if gas is extracted.

Assessors in the affected areas should closely monitor land sales to see if these leases are having any effect on sales prices. Even if an assessor determines that the possibility of extracting gas has come to permeate a market, as with any other factor the assessor would also have to consider whether this factor has any effect on the value of particular parcels.

Finally, Counsel reminds local officials that there is already a program in place to incorporate oil and gas production into the local property tax. Officials in the affected areas may wish to familiarize themselves

**Resources**

- Valuation and Assessment of Oil and Gas Producing Property in New York State
- Language from the vehicle traffic laws
- Sample weight limit local law
- Discussion of temporary (spring) weight restrictions
8. Other Considerations

Resources

Seismic Testing Special Conditions Permit
Noise Library

with the oil and gas units of production program as described on the ORPS website. These provisions are applicable when oil or gas is actually extracted.

Summary of government jurisdiction over natural gas drilling operations in NYS

The Article 23, Title 3 of the Environmental Conservation Law (ECL) delegates all authority to regulate natural gas drilling to the NYS DEC. The ECL specifies that local governments retain jurisdiction over local roads and their rights under the Real Property Tax Law.

Towns wishing to exert jurisdiction over local roads in an attempt to mitigate potential impacts have several options under Section 1660 of the Vehicle Traffic Laws.

Strategies towns may employ include:

1. The Town Board may establishing truck routes for through traffic;
2. Posting roads and establishing weight limits;
3. Issuing hauling permits for local roads (this may be a simple as accepting the NYS DOT hauling permit as the local permit);
4. Controlling curb cuts through highway work permits;
5. Establishing a Road Preservation Local Law or Road Use Agreement (RUA) that requires haulers to establish bonds or contractual agreements. (Southern Tier Counties are currently considering laws that specifically targets traffic associated with natural gas activities. County Natural Gas Task Forces have proposed law includes provisions for a permit to operate a natural gas vehicle, insurance, bonding, an escrow account and a road damage remediation account. Contact the your Planning Dept for information on this law or visit your county’s natural gas task force website;)
6. Adopt a highway work permit with special permit conditions that apply to seismic testing.
7. Noise Ordinances to regulate noise from temporary noise sources (drill rigs), portable noise sources (portable generators and compressors), permanent non-portable noise sources (large generators and compressors at well heads and on transmission lines), mobile equipment (earth moving equipment, vibraseis trucks), etc.

The Planning Department encourages any towns or villages wishing to exercise any of the above strategies to contact the Association of Towns (518-465-7933) or the Cornell Local Roads Program (607-255-8033) and the town/village attorney.

Protecting local roads

Dust, noise, and road damage from industry truck travel are major citizen complaints in regions where shale gas is extracted via high-volume, horizontal hydraulic fracturing (“hydrofracking”). A typical Marcellus Shale well requires 5.6 million gallons of water, delivered and removed by truck. The initial drilling phase accounts for half of the estimated 625 to 1148 truckloads of water, additives, and drilling or fracturing equipment required for each well site. Unlike state highways and county primary roads, local roads are generally not built to stringent guidelines, and will not handle that volume of trucks or the weight those trucks typically carry. Local road quality management is imperative, and also provides a way that municipalities can manage the pace and scale of drilling.

Best practices

The following is a set of best practices drawn from the experience of other states and shale plays:

1. Conduct a comprehensive traffic impact study with the assistance of a traffic engineering firm to clearly define road structural classes (estimated cost: $3,000-$6,500).

2. Document baseline road conditions and calculate the value of remaining road life (estimated cost: $1,000-$5,000).

3. Sign a Road Use Agreement (RUA) at the time of permitting, requiring that the operator (drilling company) offset the predicted loss of useful life for the roads they will use at current reconstruction prices (estimated cost: $1,000-$3,000 for drafting).

4. Develop and implement a haul route management system to keep heavy trucks off the most vulnerable roads (estimated cost: $3,000-$9,000).

5. Enforce load zoning, ranging from routine patrols to high-intensity, multi-agency enforcement sweeps.

Other considerations for local governments

It is our understanding that NYSDEC routinely requires natural gas companies to notify local governments via certified mail at the time a drilling permit is issued. The drilling permit will contain a condition that the natural gas company complies with all applicable regulations and required permits; however, it is unlikely that the permit will specifically mention specific laws, such as a road preservation law or noise ordinance.

The Town should notify the drilling company of the local laws pertaining to roads and noise and any requirements the town has, such as truck routes, hauling permits and bonds immediately upon receiving the required notification from the company. In addition, the Town may want to request that NYSDEC include as a specific permit condition that requires drillers to comply with the local laws.

Recent reports from local officials visiting governments in Texas indicate that the most common long-term impact from the exploration and production of natural gas is noise from permanent compressor stations along gas pipelines. Erik Miller, Director of OCCA, indicated in his August 6th presentation that local governments may be able to exert some control over land use issues associated with the development of the natural gas transmission infrastructure.

Future topics

There were several topics that need further investigation and are tentative additions to this guide for future updates.; e.g. temporary employee housing/ man camp regulations, creation of a natural gas development navigation guide (that deals with industry vocabulary and how to create effective regulations), creation of a housing authority, and reclamation plan and schedule of completion for secondary uses related to natural gas development.

We foresee changes and advances in energy development and technologies in the next several months—years. Therefore, we expect this guide to evolve as new information becomes available and conditions change. So please say tune and please contact your county planning departments, your task forces, and regional planning board, we are here to help our community be as equipped and informed as possible.

The following Chapter 9 contains a checklist that offers a condensed summary of tools and tasks your community should consider!
9. Municipal Checklist

Municipal Checklist

1. Align your organizational structure
   □ Assign municipal officers/staff additional roles and responsibility (e.g. meetings, data collection, analysis, regulator, etc.) Toolkit for Municipal Officials (CCE)
   □ Coordinate efforts w/ energy task force at county level, List of community task forces
   □ Get connected (e.g. join education listservs by emailing CCE-MARCELLUSHALEOUTREACH-L@list.cornell.edu, newsletters, forums, webinars Cornell Sponsored Webinars and Presentation or Penn State Webinars, workshops, & coordination with surrounding communities when possible)

2. Create a baseline profile
   □ Identify historical and current data (e.g. EMS, roads, traffic counts, social services, police, water/sewer, school districts, bus routes, population counts, workforce, economic sector, unemployment, wages, housing prices, housing affordability options, short-term housing – man camps, hotel, rentals, RVs, etc.)
   □ Identify, inventory, & map: 1) local government costs & services; 2) vacant & occupied housing stock; 3) underutilized commercial/industrial properties; 4) possible sites for short-term employee housing (e.g. man-camps/ RV camps); 5) major stakeholders list (e.g. county/municipal planning, town supervisors, state legislators, local officials, local govt. agencies, state regulatory agencies, industry/business associates, citizens, homeowners, other interested groups, natural resource agencies, conservation districts, economic development districts, watershed associations, other resource interests, tourism, sportsmen’s groups, farmer’s groups, fire, police, emergency services providers, human services agencies, and other relevant federal agencies); 6) significant agricultural properties; 7) tourism destinations; 8) school districts & associated bus routes, as well as, mass transit, tour bus, & major construction routes; 9) critical environmental areas (CEAs); and 10) desirable areas for future development (e.g. consider PUDs, cluster development, mixed-use, & high density where appropriate); etc.
   □ Track the industry: gas industry data sharing, Interactive rig count, DEC well data search

3. Utilize your planning documents
   □ Adopt/update comprehensive plan (include: energy development, renewable energy policies, housing, land use, and transportation initiatives; and model comprehensive plan)
   □ Plan to adopt/amend associated zoning regulations to support updated comprehensive plan
   □ Collect and review other related studies (e.g. traffic study/road maintenance plan and economic development strategy)
   □ Review SGEIS on the Oil, Gas and Solution Mining Regulatory Program

4. Utilize your municipal regulations
   □ Review/adopt site plan review law, town of Otego’s site plan review law
   □ Adopt/update road use agreement (RUA) regulations (NY example) and RUA (PA example)
   □ Review/update regulatory definitions (e.g. industry terminology, man-camp, temporary employee housing, storage yard, compressor station, drilling rig, etc.) Sample industrial terminology and municipal guide from Garfield County, Colorado

1 Prioritize per your community's needs, if your community already has zoning, several regulations mentioned in this should be changed within your zoning code instead.

Official online Energy Guide available at www.stcplanning.org where all online resources are hyperlinked
9. Overview Checklist

- Update/ adopt erosion, sedimentation, and local stormwater regulations
- Update/ adopt floodplain regulations and floodplain district
- Adopt aquifer protection regulations
- Adopt wellhead protection regulations, wellhead protection ordinance, what is wellhead protection laws?
- Adopt brine/ waste disposal regulations
- Review commercial and industrial water/ sewer rates and regulations to ensure rates cover municipal costs (including maintenance)
- Review/ adopt camping regulations (see §128-62 - temporary Shelter and associated definitions)
- Review mobile home court/RV Ordinance
- Review/ adopt regulations on short-term temporary employee housing regulations
- Model regulations for man-camps (See Article 4-106, 4-108 and 4-109 or our Land use code for more details)
- Consider revising subdivision regulations (to include planned unit development (PUD), cluster development, and perform a life cycle analysis for phased or temporary development)

5. Put your zoning to work
- Adopt light & noise ordinance
- Review/ update regulatory definitions (e.g. industry terminology, man-camp, temporary employee housing, storage yard, compressor station, drilling rig)
- Adopt/ review agricultural zoning
- Amend zoning district in urban

- Consider Adopting CEAs Overlay Zoning District, model CEA Overlay District
- Consider zoning language to prohibit or allow gas extraction in specified districts (see towns of Dryden, Ithaca, and Ulysses – regulations under development)

6. Other considerations
- Adopt viewshed regulations, inventory & map
- Adopt land use regulations near transmission pipeline regulations
- Adopt reclamation regulations for construction activities
- Adopt incentive overlay zoning and sample incentive zoning ordinance
- Consider adopting non-traditional zoning (e.g. overlay districts, PUDs, form based zoning)
- Create/ partner with a housing trust for rent/ owner controls and affordable housing guide
- Adopt LEED certification and green building design regulations
- Adopt renewable energy initiatives

7. Miscellaneous resources
- State resources and NYS Energy Plan
- New York State Legislative activity,
- Land of the Law blog
- Educational resources: Cornell's Natural Gas Resource Center, Penn State Extension, Natural Gas, and STC Planning Energy
- Tax Discussions: Taxation in PA, Natural Gas Property Tax (PA), and Tax Policy and Marcellus

Update/ adopt erosion, sedimentation, and local stormwater regulations
- Consider Adopting CEAs Overlay Zoning District, model CEA Overlay District
- Consider zoning language to prohibit or allow gas extraction in specified districts (see towns of Dryden, Ithaca, and Ulysses – regulations under development)

Review commercial and industrial water/ sewer rates and regulations to ensure rates cover municipal costs (including maintenance)
- Review mobile home court/RV Ordinance
- Model regulations for man-camps (See Article 4-106, 4-108 and 4-109 or our Land use code for more details)
- Consider revising subdivision regulations (to include planned unit development (PUD), cluster development, and perform a life cycle analysis for phased or temporary development)
Start planning…
The following tables list municipal planning regulations currently in place at the town and villages levels. These tables correspond to the regional planning regulations map located on page 2 of this guide.

The data is based off the current STC database and county planning departments (Schuyler, Steuben, and Chemung), please contact STC Planning if there is an inaccuracy or need for clarification.

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Plan Ahead!