

# The Comprehensive Plan



# Definition

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- The NYS Court of Appeals noted in *Udell v. Haas* that 'the comprehensive plan is the essence of zoning. Without it, there can be no rational allocation of land use.'
- Statutes require that all land use regulations must be made 'in accordance with a comprehensive plan.'
- Therefore, planning should precede any adoption or amendment of a land use regulation.

# Definition

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NY statutes define a comprehensive plan as the 'materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, report, and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices, and instruments for the immediate and long-range protection, enhancement, growth, and development of the locality.'

# What elements should be part of a comprehensive plan?

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- While there are no required components, the statutes suggest fifteen different elements for inclusion
- 1) A general statement of goals, objectives, and standards upon which proposals for the immediate and long-range growth and development of the municipality are based;
  - 2) Consideration of the regional needs and official plans of other government units within the region;

# What elements should be part of a comprehensive plan?

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- 3) Existing and proposed location and intensity of land uses;
- 4) Consideration of agricultural uses, historic, and cultural resources, coastal and natural resources and sensitive environmental areas;
- 5) Consideration of population, demographics and socio-economic trends, and future projections;
- 6) The location and types of transportation facilities;

# What elements should be part of a comprehensive plan?

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- 7) Existing and proposed location of public and private utilities and infrastructure;
- 8) Existing housing and future housing needs, including affordable housing;
- 9) Present and future locations of commercial and industrial facilities;
- 10) Present and future location of historic sites, educational, cultural, health, and emergency services;
- 11) All or part of the plan of another public agency;

# What elements should be part of a comprehensive plan?

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- 12) Specific policies and strategies for improving the local economy in coordination with other plan topics;
- 13) Proposed measures, programs, devices, and instruments to implement the goals of the comprehensive plan;
- 14) Existing and proposed recreational facilities and parkland;
- 15) Any and all other items that are consistent with the orderly growth and development of the municipality

# Purpose

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- Creates a blue print
- Often referred to as the 'master plan,' it is the policy foundation upon which communities are built.
- Guides not only the physical and economic development, but also social, environmental and regional concerns



# Why should you engage in comprehensive planning?

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- ❑ Not mandatory, but....
- ❑ A plan provides the court with the necessary information upon which to base its decision
- ❑ After a comprehensive plan is adopted, all other governmental agencies planning capital projects must first consider the local plan.
- ❑ With a comprehensive plan in place, implementation of municipal vision can occur

# When?

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- ❑ Can occur at any time
- ❑ An adopted plan should be reviewed periodically and amended as necessary
- ❑ Should be revisited as change occurs
- ❑ Review every 5 years
- ❑ The statutes require municipalities to set forth in the comprehensive plan 'the maximum intervals at which the adopted plan shall be reviewed.'
- ❑ Frequent attention will have a positive impact on day to day decision making and the practical progress of the community towards its long-range goals.

# Authority?

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- ❑ The local legislature is authorized by statute to prepare or amend the comprehensive plan.
- ❑ The local legislature can direct, through resolution, the planning board or a special board to prepare or amend the plan.
- ❑ If the comprehensive plan is prepared by a board other than the local legislature, that board must forward the plan to the local legislature along with its adopted resolution recommending the plan.

# Implementation

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- Good comprehensive planning begins with information gathering
- Data should be gathered and considered-- transportation, wetlands, water, sewer, etc
- Consider needs—need for housing? Infrastructure? Open space?

# Implementation

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- ❑ Based on collected information, locality can determine and set forth a statement of its objectives in the comprehensive plan
- ❑ This statement can address both the intermediate and the long range goals of the municipality
- ❑ Can also include specific land use techniques that can be utilized—transfer of development rights, zoning, planned unit development
- ❑ Non-regulatory techniques—land acquisition, grants and loans, streamlined permit review

# Implementation

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- The formation of the comprehensive plan and its implementation strategies should involve, to the greatest extent possible, the local citizens.
- Surveys and polls, town meetings, charettes and focused workshops can be used
- A plan that not only addresses the needs of the community but is developed with citizen input and through consensus will be more effective in creating a viable work plan for the future.

# Implementation

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- The statutes require that one or more public hearings be held during the plan's preparation and, if the plan is prepared by the planning board or a special board, the local legislature must hold a public hearing within 90 days after receiving the proposed comprehensive plan.
- Notice must be published at least 10 calendar days before the hearing
- A copy of the proposed comprehensive plan must be available

# Implementation

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- ❑ If the proposed comprehensive plan is prepared by a special board or the local legislature, the planning board can be given an opportunity to review the proposal and make recommendations prior to action by the local legislature.
- ❑ The proposed comprehensive plan must be referred to the County for its review and recommendation.
- ❑ Prior to adoption, a comprehensive plan is subject to the provisions of the State Environmental Quality Review (SEQR)



# Limitations and Concerns

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- Take time, cost money and require effort
- Many good plans are adopted and then lie dormant on a shelf
- May lead to updating zoning and other land use regulations

# Limitations and Concerns

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- ❑ Land use regulations are often challenged as 'not in accordance with a comprehensive plan.'
- ❑ When there is a written, up to date plan, the court is best able to discern whether the regulation is a permissible exercise of local authority.
- ❑ Plans are given a lot of weight in the courts

# Limitations and Concerns

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- Difficulty can arise when a locality has no comprehensive plan or the plan is out of date.
- In these cases, the courts take a look at 'all relevant evidence.'
- This allows the court discretion

# Statutes

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- The definition of a comprehensive plan and the suggested elements that it may contain, as well as all procedural requirements can be found at Village Law 7-722, Town Law 272-a and General City Law 28-a.
- Village Law 7-704, Town Law 263 and General City Law 20(25) require that zoning laws conform to the comprehensive plan.

# Case Digest

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- Udell v. Haas (1968)
  - Struck down a zoning amendment because it failed to conform to the comprehensive plan requirement
  - Planning board recommended zone change from business to residential
  - Land was rezoned, but local legislature failed to articulate the comprehensive planning objectives achieved by the rezoning

# Case Digest

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- Kraizberg v. Shankey (1991)
  - 'the Town maintained that it is not obliged to slavish servitude to the master plan and it is was free, in 1989, to determine that the master plan should not be followed with regard to the plaintiff's property.'
  - Court determined that the Town had failed to articulate a specific rationale for departing from its comprehensive plan in adopting the zoning amendment

# Case Digest

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- Golden v. Planning Board of Town of Ramapo (1972)
  - Recognized the authority of local governments to influence the shape and development within their boundaries, provided that the goal is to channel but not exclude development
  - Town's right to adopt a comprehensive plan and zoning law that worked to slow the subdivision of property to a pace that the Town could support with infrastructure to be provided under its long term capital plan

# Comprehensive Plan---Getting Started

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- There are a range of options for development of a comprehensive plan
- The State Legislature has found that 'the great diversity of resources and conditions that exist within and among communities of the state compels the consideration of such diversity in the development of each comprehensive plan.'



# Basic Statutory Provisions

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- A comprehensive plan is a written document that identified the goals, objectives and devices for the 'immediate and long range protection, enhancement, growth and development of the community.
- The effect of adopting a comprehensive plan is that all local land development regulations must be in conformance with its provisions.

# Recommended Components

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- There are no required components of a comprehensive plan.
- It 'may' contain items such as identification of existing land uses and trends, future housing and transportation needs, et cetera

# Other Elements

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- The plan must specify the maximum intervals at which the adopted plan will be reviewed.
- The plan may consider the needs of the region and plans of other relevant public agencies.

# Plan Preparation and Adoption

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- The plan must be prepared by the local legislature, the planning board or a special board that includes at least one member of the planning board.
- Subject to SEQOR

# Public Participation in Plan Preparation

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## □ Importance

- State law states that an open, responsible and flexible planning process is essential to the preparation of a comprehensive plan.
- This invites, but does not require, public input in all phases of the plan development so that public consensus will be reached and the community will support the plan.

# Public Participation in Plan Preparation

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## □ Process

- State law allows the board preparing the plan to conduct meetings as it deems necessary to assure full opportunity for citizen participation in the preparation of the plan or an amendment to an existing plan.
- At a minimum, the board preparing the plan must hold ONE PUBLIC HEARING.

# Methods

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- Meetings can be conducted
- Committees and sub-committees can be formed to conduct surveys and prepare reports on public needs and visions.
- Media, local papers, special mailings
- Identify all groups and stakeholders, key representatives

# Parties Involved

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- ❑ The statutory process allows great flexibility in involving citizens and experts in the preparation of the comprehensive plan.
- ❑ Groups and individuals may include elects officials, members of planning or zba, assessor, historian, et cetera
- ❑ Excluding any of the groups or individuals may run the risk that the plan will not discuss and consider valuable data and views necessary for the plans effectiveness.



# Organization of the Comprehensive Plan



# Suggested Plan Components

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As suggested by state law, a comprehensive plan may be organized into six major components. These components and their contents are as follows:

# Suggested Plan Components

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- Issue Identification- sets forth data and community opinion and discusses and analyzes this information to determine the critical land use issues and unique opportunities of the community;
- Public Infrastructure- discusses the adequacy of existing public infrastructure such as water supply, wastewater treatment facilities and solid waste disposal and examines the potential need for increased facilities;

# Suggested Plan Components

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- ❑ Public Services- considers the adequacy of existing services such as schools, emergency services and health care facilities, and the potential need for increased services
- ❑ Resource Protection- discusses the adequacy of present efforts to preserve both the natural and man-made environments within the community and examines the need for greater protection of these resources

# Suggested Plan Components

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- Economic Development- identifies present economic development activities, such as tourism and light industry, and sets forth strategies for improving the community's economic base
- Implementation Plan- establishes how the strategies contained in each component of the plan will be implemented and coordinated with other plan components to achieve the goals of the comprehensive plan

# The Planning Process



# Identifying Critical Issues

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- Surveys- Community opinion may be gathered by conducting surveys or holding public meetings where the public presents its views regarding critical issues and unique opportunities

# Identifying Critical Issues

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- Data, Information, and Studies- Census data, data from other agencies, studies can be conducted on important local conditions, useful data includes
  - History of the community
  - Population trends and demographics
  - Identification of unique strengths and opportunities
  - Adequacy of existing public services



# Critical Issues and Unique Opportunities

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- The purpose of gathering and analyzing community opinion, collecting data, and conducting studies is to identify the critical issues that the community faces as well as its unique opportunities.
- From the above, the board can determine the issues that must be addressed in detail in the plan and which strategies are the most feasible.

# Setting Goals

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- With community input, the board can set goals that address each critical issue selected in the prior stage of planning that building upon the community's unique strengths, characteristics, and opportunities.
- The goal in each case is to eliminate the problem identified while strengthening the community's positive attributes.

# Establishing Objectives

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- The board can then identify one or more intermediate-term objectives to be achieved that will enable the community to reach its goals.
- An example is to amend the zoning law to protect wetlands of a certain size and character and to adopt a historic district and landmarks preservation law.

# Developing Strategies

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- Strategies are actions that are recommended by the board to accomplish an objective.
- In each case, one or more actions may be suggested to attain the objective.

# Devising an Implementation Plan

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- At the end of the comprehensive plan, the board can recommend how the plan's strategies are to be implemented.
- An implementation plan designates the agencies or officials responsible for each action, identifies resources necessary for these actions, and establishes time periods for the completion of each action.

# Devising an Implementation Plan

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- By attempting to assign responsibilities, identify necessary resources and adopt a time frame to accomplish specific actions, the board will discover whether strategies being explored are realistic.
- If the strategies seem unrealistic, the board has the opportunity to devise new strategies to achieve the established objectives.

# Comprehensive Plan Diagnostic Checklist



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- This checklist illustrates how a comprehensive plan can be organized.
  - It was created by examining state law requirements and reviewing the contents of dozens of adopted plans.
  - This checklist is illustrative and not all inclusive.



# Introduction

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- Reasons for adopting or amending
- How its organized and purpose
- Process, how facts were gathered, participation, conclusions
- Municipal history, unique characteristics
- SWOT
- Vision for the future
- Summary of goals and objectives of the plan

# Issue Identification

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- ❑ Presentation and eval of data and info
- ❑ Existing land uses, trends in land use
- ❑ Major land uses throughout municipal history
- ❑ Projected buildout based on current zoning
- ❑ Population and demographics, regional projections
- ❑ Households, age distribution, income

# Financial Conditions

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- Trends in local revenue raising
- Real property taxes
- Fiscal health
- Resources available by source

# Community Preferences and Values Obtained From Surveys and Meetings

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- ❑ Critical issues and problems
- ❑ Unique opportunities
- ❑ Available resources
- ❑ Realistic strategies

# Statement of Critical Issues and Unique Opportunities

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- Critical issues
- Unique opportunities

# Public Infrastructure

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- Background information- this may contain analysis for each of the following types of public infrastructure of current capacity, future needs, options for meeting those needs, the cost of meeting those needs and available financial resources.
  - Transportation facilities
  - Utilities

# Public Services

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- Background information- this may contain analysis for each of the following types of public infrastructure of current capacity, future needs, options for meeting those needs, the cost of meeting those needs and available financial resources.
  - Emergency services, local hospitals, police, fire, educational facilities, solid waste disposal, recreation and parks

# Resource Protection

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- Background information- this may contain analysis for each of the following types of public infrastructure of current capacity, future needs, options for meeting those needs, the cost of meeting those needs and available financial resources.
  - Natural and Historic Resources
  - Economic Development



# Implementation Plan

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- Summary of planning strategies for implementation- at the beginning of this section, the list of strategic actions that are to be taken and how various agencies, agents and groups are to be made responsible for those actions can be described along with a general timetable for completing those actions.

# Implementation Plan

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- Public Infrastructure
  - Goals
  - Objectives
  - Strategies
  - Agencies and officials to be involved in implementation and their responsibilities
  - Time schedule

# Review and Revision

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- Ongoing process by which the plan and its objectives will be reviewed.
- Intervals at which the comprehensive plan will be reviewed.

# The Zoning Law and Its Amendment



# Definition

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- The local zoning law divides the community into land use districts and establishes building restrictions limiting the height, lot area coverage and other dimensions of structure that are permitted to be built within each district.
- The local zoning law is based on the comprehensive plan.

# Implementation

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- ❑ The power to adopt and amend zoning regulations is legislative.
- ❑ When zoning provisions are first adopted in villages or towns, a zoning commission must be established to recommend zoning district boundaries and use and dimensional requirements. (Cities excluded)
- ❑ The commission must hold one or more public hearings, after public notice, on its recommendations before submitting them to the local legislature.

# Implementation

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- Before the initial zoning regulations are adopted, the legislative body must hold a public hearing, after public notice, on the proposed regulations.
- The initial adoption of zoning regulations is a Type I action under SEQR---necessary to prepare a full EIS

# Implementation

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- ❑ Amendments to zoning provisions can be adopted only after public notice and hearing on each amendment.
- ❑ The legislature can amend the zoning law on its own initiative, in its discretion.
- ❑ Only in cities, and only upon the petition of a requisite number of property owners, must the legislature actively consider an application for rezoning.



# Implementation

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- Zoning amendments that change the allowable use of 25 or more acres or have other impacts spelled out in state regulations are Type I actions under SEQRA and may require the preparation of a full EIS.
- Normally, amendments may be adopted with a vote of a majority, but where a petition is submitted by the owners of a certain percentage of land affected by a zoning change, or where a county or regional agency has review authority and disapproves of the changes, more than a simple majority vote is required .

# Implementation

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- Zoning provisions and their amendments must be adopted IN CONFORMANCE WITH THE COMPREHENSIVE PLAN of a municipality.
- If they are not, they may be found to be beyond the municipality's power to adopt land use regulations.

# Limitations and Concerns

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- Where localities have adopted a comprehensive plan recently and conform their land use regulations, including zoning, to that plan, these regulations are greatly insulated from attack.
- For this reason, it is critical, in adopting land use regulations and zoning amendments, that the public interest in the regulation and the comprehensive planning objective achieved by it be spelled out in the findings of the legislature when enacting the regulation or amendment.

# Limitations and Concerns

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- ❑ Zoning provisions cause particular problems when they are vague.
- ❑ The ZEO needs specificity and clarity to interpret and apply zoning provisions.
- ❑ The work of a ZBA is compounded when a law contains provisions that suffer from vagueness.

# Statutes

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- Village Law 7-700, Town Law 261 and General City Law 20(24) grant basic land use authority to local governments and allow them to regulate the details of land development and building construction and alteration. This may be done for 'the purpose of promoting the health, safety, morals or general welfare of the community.'

# Case Digest

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- Euclid v. Ambler (1926)
  - The US Supreme Court first held that the enactment of zoning use districts is a permissible use of a local government's police power
  - Did not violate equal protection rights and was not a taking of property without just compensation

# Case Digest

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- Rodgers v. Village of Tarrytown (1951)
  - The Court of Appeals held that 'the power of a local government to amend its basic zoning law in such a way as reasonably to promote the general welfare cannot be questioned.'