

## PE6 Action: Zoning for Protection of Natural Areas

4 Points

6 Points

### A. Why is this action important?

Natural areas (including forests, wetlands, rivers, lakes, floodplains, and coastal shorelines) play an essential role in communities. They provide clean air and water, stormwater regulation, food and forestry products, scenic areas, outdoor recreation opportunities, and protect important ecological functions. In addition, natural areas often represent a chunk of stored carbon that, if developed, would enter the atmosphere and contribute to greenhouse gas emissions. Functioning ecosystems also sequester carbon and can help to mitigate a community's greenhouse gas emissions. For these reasons, the Climate Smart Communities (CSC) program encourages local governments to use their land-use authority to protect natural areas.

### B. How to implement this action

Zoning or other local land use regulations can be used to protect conservation targets for climate resilience and adaptation. High priority conservation targets include the following:

- Coastal shorelines and areas where dunes, beaches, and tidal wetlands will migrate as sea levels rise.
- Stream buffers, floodplains, wetlands, and wetland buffers.
- Large natural areas such as intact forests and wetland complexes.
- Local and regional corridors connecting larger natural areas.
- Areas with diverse physical settings, e.g., varying geology and topography, which are predicted to support high biodiversity into the future.

There are several techniques that can be used to focus development into areas best suited for development and preserve natural areas through local zoning or regulations:

- **Conservation or cluster development zoning** – allows for flexible lot sizes and calls for an analysis of the land's conservation value to determine the area most suitable for building and for conservation.
- **Overlay zoning** – applies a common set of standards to a designated area that may cross other conventional zoning districts. This allows local governments to protect several larger areas that may encompass several underlying zoning districts.
- **Conservation zoning district** - a primary zoning district can be established to regulate development in an area of environmental sensitivity.
- **Wetland and watercourse zoning** – fills gaps in state or federal protections for wetlands, streams, and adjacent wetland or stream buffer areas.
- **Performance standard zoning** – establishes zones which are based on an allowable environmental impact to the resources of an area opposed to a specific allowable use.
- **Incentive zoning** - provides for a trading agreement between a developer and a local government. In return for maximizing open space a developer is given a bonus, such as increased density on the site.
- **Special use permits** - outlined in the zoning ordinance, the jurisdiction establishes zones that require a special permit to develop to allow for more discretionary review of individual proposals.
- **Subdivision regulations** – govern the manner by which land is divided into smaller parcels. They can include provisions that help to accomplish natural area conservation, such as explicitly protecting wetlands, steep slopes, or floodplains.
- **Site plan review** – may be enacted by separate local law and involves a review of the design for a proposed development on a particular parcel of land. It ensures that the site design meets established criteria, which may

include natural resource considerations.

- **Critical Environmental Area (CEA) designation** – is an opportunity available under SEQRA for the consideration of specific natural areas during environmental reviews. Local governments may establish CEAs for specific geographic areas within the community containing sensitive or unique features that require protection. Under SEQRA, the potential impact of a Type 1 or unlisted action on the CEA must be evaluated in the determination of significance, ensuring that the resource is specifically addressed during review.
- **Habitat assessment guidelines** – create a standardized process for identifying and reviewing potential impacts to habitats and water resources under SEQRA and to guide conservation of natural areas through site design.

A local government must determine which of these techniques works best for its specific situation. Using a natural resources inventory, open space plan, or other planning effort is highly recommended to determine where zoning ordinances or other regulations may need to be applied. Some local governments may also choose to address these issues as part of the development of a local waterfront revitalization plan. Whichever strategies the local government chooses, it is advised to seek the counsel of the local government attorney. In addition, local governments should present information, using geospatial software, to local planning boards and to the public to help them visualize the need to conserve existing natural areas and to increase open space where important.

### C. Timeframe, project costs, and resource needs

This action can be implemented with assistance from a professional planner on staff. For many communities, changes in zoning ordinances and other regulations can take up to a year to conduct background research, review existing ordinance language, draft new language, consult with a local government attorney and pass new or revised legislation. Consultants can be very helpful resources in crafting the language and determining the most appropriate policy changes to accomplish local goals.

### D. Which local governments implement this action? Which departments within the local government are most likely to have responsibility for this?

This action is relevant to any local government. The planning department or planning board and local government attorney are the primary stakeholders responsible for this action. Municipal committees, such as CSC task force, conservation advisory councils or environmental conservation committees may also be involved.

### E. How to obtain points for this action

To obtain points for this action, the local government must update the local zoning ordinance or appropriate regulations to protect natural areas with recognized value for climate resilience or adaptation.

	POSSIBLE POINTS
Develop and implement a local zoning ordinance that helps to conserve natural areas.	4
Base local ordinance on strategic conservation of high value areas identified in a natural resource inventory, open space plan, or similar planning document.	2

### F. What to submit

Submit a copy of (or a link to) the zoning amendment, ordinance, or other regulation that protects natural areas. Show that the regulation was implemented (or updated) within the last 15 years.

For the additional two-point tier, describe how the regulation protects an area that was identified in a natural resource inventory, open space plan, or similar planning document.

All CSC action documentation is available for public viewing after an action is approved. Action submittals should not include any information or documents that are not intended to be viewed by the public.

## **G. Links to additional resources or best practices**

- [DEC, 2016 Open Space Conservation Plan](#)
- [National Lands Trust, Preserving Open Space](#)
- [DEC, Open Space Protection](#)
- [DEC Critical Environmental Areas](#)
- [DOS Model Local Laws to Increase Resilience](#)
- [PACE Land Use Law Center Gaining Ground Database](#)
- [NC State University, Conservation Subdivision Handbook](#)
- [Conservation Area Overlay District: A Model Local Law](#)
- [Hudsonia's Model Habitat Assessment Guidelines](#)
- [DOS Local Open Space Planning Guide](#)

## **H. Recertification requirements**

The recertification requirements are the same as the initial certification requirements.

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