

APPENDIX G: MODEL LOCAL LAW TO ADOPT THE NRI

This model local law for adopting a municipal Natural Resources Inventory was written by Ted Fink, AICP, of GREENPLAN, Inc. The template provides a starting point for integrating an NRI into municipal decision-making and can be customized to reflect the interests and needs of the community.

[Village, City, Town] of _____

Local Law No. _____ of the Year _____

A local law to adopt the [village, city, town] of _____ Natural Resources Inventory.

Be it enacted by the [village board, town board, common council] of the _____ of _____ as follows:

SECTION 1. LEGISLATIVE INTENT

This local law amends the Code of the [village, city, town] to adopt the Natural Resources Inventory prepared by _____ and to expressly integrate use of such Inventory into all land use decision-making within the [village, city, town] of _____.

SECTION 2. AMENDMENTS TO THE [village, city, town] CODE

A new Chapter ____, adopting and implementing the [village, city, town] of _____ Natural Resources Inventory, is added to the Code of the [village, city, town] _____ as follows:

[Commentary: Generally, a new chapter number must be assigned for any new local law that is to be added to the municipal code. This model local law should be viewed as a starting point for integrating a natural resources inventory into municipal decision-making. To effectively integrate the inventory into all decision-making, New York State provides a wide range of tools including comprehensive plans, environmental review, incentive zoning, overlay zoning, floating zones, transfer of development rights, purchase of development rights, establishment of community preservation plans (i.e. real estate transfer tax), wetland protection, steep slope protection, clustered development, tree preservation, issuance of municipal bonds, and others. Excerpts of this chapter can also be added, with modification, to the municipal subdivision regulations as well as the site plan approval procedures. It is recommended that the Inventory be added as an amendment to the municipal comprehensive plan to strengthen its application and integration with other laws and regulations. Municipalities should consult with county planning departments or professional planners on which approaches are right for the community.]

A. Purpose. The purpose of this Chapter is to protect natural resources in the [village, city, town] of _____ by adopting a Natural Resources Inventory, thereby enabling management and use of natural resources for present and future residents. The [village, city, town] of _____'s protection and sustainable use of its natural resources will protect the rights of residents, both present and future, to clean air, pure water, and the natural, scenic, and aesthetic values of the environment, as set forth in Article XIV, Section 4 of the New York State Constitution. The [village, city, town] of _____'s quality of life will be enhanced by the sustainable management of its natural resources, including diverse habitats, natural systems and cultural resources. Such features have been identified in the [village, city, town] of _____ Natural Resources Inventory, as it may be amended from time to time. The mapping of natural resources by the [village, city, town], in accordance with the New York General Municipal Law § 239-y and the [village, city, town] Comprehensive Plan, constitutes the [village, city, town]'s Natural Resources Inventory (NRI). The incorporation of natural and cultural resource information into the decision-making processes identified herein will enable the [village, city, town] to balance its responsibility to promote the economic well-being of [village, city, town] residents, while protecting the integrity and value of the [village, city, town] of _____'s natural areas, including the [village, city, town]'s soils, water resources, habitats and wildlife, and other significant environmental resources. This Local Law, adopted pursuant to New York Municipal Home Rule Law, § 10(1)(ii)(a)(11), requires that all new development subject to [village, city, town] subdivision, site plan and special use permit review and approval, shall take into consideration the [village, city, town] NRI.

[Commentary: The purposes of a local law must be clear and unambiguous. Relating the purposes of incorporating a natural resources inventory into municipal decision-making, with one of the few land use objectives found in the New York State Constitution, elevates the significance of local natural resource information. Equally important is to cite relevant sections of New York State's General Municipal Law, which authorizes the development of a natural resources inventory, and Municipal Home Rule Law, which authorizes local governments to adopt land use laws "for the protection and enhancement of its physical and visual environment."

The model has been structured to function either as a guideline or a standard. If it is to be used as a "guideline," use of the term "should" will be selected. If it is to be used as a "standard," use of the term "shall" will be selected. In both cases, the NRI will become an integral part of the review and approval process of the community because natural resource information will be considered during the review and approval of all applications subject to it.]

B. Intent. It is the intent of the [village, city, town] of _____ to establish an NRI review process to guide land use development decision-making, by facilitating New York State Environmental Quality Act (SEQR) requirements during reviews of proposed subdivision, site plan, and special use permit applications, and by incorporating protection of natural resources into the design of projects. The NRI review process will enable applicants to know well in advance what will be required during the [village, city, town]’s review of applications, thus avoiding unnecessary delay and expense during the review process. The [village, city, town] NRI [shall/should] be used as a basis for identifying natural and cultural resources on a property subject to [village, city, town] review under subdivision, site plan, and special use permit review and approvals, but because of its general nature, additional on-site assessment surveys may be necessary. The NRI review process enables the [village, city, town] to make better planning decisions, establish consistent [standards/guidelines] for development proposals, fulfill regulatory obligations imposed by SEQR, and to protect and maintain natural resources while preserving economic viability as follows:

[Commentary: The intent of a Local Law is memorialised through findings. The findings of a local law help to correlate relevant legal standards to the decisions made by a municipal board. The board which clearly memorialises detailed and carefully written findings gives itself the best insurance against successful challenge.]

1. Integrating the NRI review process into the planning, design, review and approval processes of the [village, city, town] of _____ facilitates biodiversity conservation, preserves surface and groundwater resources, helps maintain natural areas, reduces impacts on agriculture and especially irreplaceable prime farmland soils, protects visual resources, scenic areas and recreational opportunities, supports community values, protects and enhances property values, and provides ecological connections throughout the community.
2. The [village, city, town] of _____ intends to use the NRI as a starting point for more detailed greenspace protection planning that includes a variety of locally identified factors, such as agricultural soils, important habitats or natural features, significant views, settings for historic structures, or potential for public access. It is the intent of the [village, city, town] of _____ to maintain the NRI as a dynamic resource base, and to update the information contained within it on an on-going basis, to ensure accuracy, as new data becomes available.
3. Land development may be associated with negative impacts to watersheds, which may result in degraded water quality, reduced water supply, increased pollution, erosion and sedimentation, damage to streams and wetlands, poor drainage and flooding.
4. Healthy natural systems comprise the landscapes valued by [village, city, town] residents. Ecological imbalances resulting from improperly sited development and its adverse impacts can lead to degraded landscapes and a loss of ecosystem values.
5. It is ultimately more cost effective for the [village, city, town] to protect significant natural resources rather than attempt to restore them once they have been damaged or lost. This proactive stance will guide development, not prohibit it, and can greatly influence decisions about how development occurs on a particular site.
6. The [village, city, town] of _____ intends to use the NRI as a starting point for more detailed greenspace protection planning that includes a variety of locally identified factors, such as agricultural soils, important habitats or natural features, significant views, settings for historic structures, or potential for public access.
7. The intent of these regulations is to make the [village, city, town] of _____ a more sustainable community, one that develops and prospers without depleting or destroying the environmental, historic, and visual resources that provide the basis for that prosperity.

C. Natural Resource Identification. Specific resources identified in the NRI [shall/should] be incorporated into the Planning Board’s review process. In all land use decisions subject to this Chapter, integration of the NRI information will be a valuable tool for planning land uses that are compatible with existing natural resources by minimizing impacts and providing acceptable mitigation measures when impacts cannot be avoided. Proposed lot layouts and development should be designed and arranged to avoid impacts to features identified in the Natural Resources Inventory. NRI resources are to include, but are not limited to:

1. Water resources including aquifers; streams and waterbodies with their State water quality classification; floodplains; wetlands and vernal pools, whether or not they are protected by local, state or federal regulations.
2. Vegetation including community types; forested areas; grasslands, meadows, and shrublands; significant trees defined as all trees over [X” or XX”] in diameter at breast height, trees at the limit of their range, and trees over 100 years old; New York State listed endangered, threatened, rare, and exploitably vulnerable plants or the New York State rare plant status lists; locally significant vegetation; rare or high quality examples of natural ecological communities; stream and riparian habitats; tidal wetlands and shoreline habitats; unfragmented habitat blocks and significant biodiversity areas; and vegetation resources on parcel that connect to such resources on adjoining or nearby public lands/protected areas.

3. Wildlife “Species of Greatest Conservation Need,” as defined by the State of New York, including but not limited to breeding birds, reptiles, amphibians and mammals.
4. Geology and soils with particular attention to hydric, prime farmland, and soils of statewide significance.
5. Elevation, aspect and slope including rock outcrops, steep slopes of 10% to 15% and 15% or greater, ridgelines, stone walls, and unique geologic features.
6. Cultural resources including locally significant as well as State and National historic sites, buildings, and districts; scenic resources; recreation resources; agricultural districts; active farmland; and lands conserved through public ownership or private conservation restrictions.

D. Applicability. Use of the NRI review process is required for all subdivision, special permit uses, uses requiring site plan approval, or other [village, city, town] development reviews that are subject to SEQR. Each application shall contain a conservation analysis, consisting of inventory maps, description of the land, and an analysis of the conservation value of various site features identified from the NRI. The conservation analysis shall show lands with conservation value, including but not limited to: Land exhibiting recreational, historic, ecological, water resource, scenic or other natural resource value, as shown in the NRI. *[Option. When the NRI review process is “encouraged” rather than made “mandatory” under Section C above, it is suggested that the following statement (or similar one) be made in the above paragraph on applicability: “While use of the NRI review process is mandatory, such guidance is non-binding but should be used in the Board’s exercise of discretion when reviewing an application subject to this section. Such discretion should include a finding that the public interest in natural resources is protected, the subdivision or site plan is in keeping with the general spirit and intent of these regulations, and full compliance with SEQR is provided].*

[Commentary: Each municipality will choose what aspects of its land use controls to include in the section on applicability. The three most common forms of land use control authority have been included. Zoning amendments, zoning variances and other forms of community decision-making (such as municipally sponsored actions) can be included or excluded in this subsection. Ideally, the sections of zoning, subdivision regulations, and site plan regulations that outline what information must be included on any application for approval, should also be amended to reference or incorporate this Chapter of the Code].

E. Interpretation. This chapter shall be deemed an exercise of the powers of the [village, city, town] of _____ to preserve and improve the quality of the physical and visual environment on behalf of the present and future inhabitants thereof. This chapter is not intended and shall not be deemed to impair the powers of any other public corporation.

F. Definitions. Except as defined herein, all words used in this Local Law shall carry their everyday dictionary definition. Unique terms used throughout this Local Law are defined as follows:

Open Space Inventory. An inventory of open areas within the [village, city, town] with each such area identified, described and listed according to priority of acquisition or preservation.

Open Space Index. The open space inventory and natural resources inventory maps after acceptance and approval by the [village, city, town] [board, council].

Natural Resources Inventory. Any area characterized by natural scenic beauty or, whose existing openness, natural condition or present state of use, if preserved, would enhance the present or potential value of abutting or surrounding development or would establish a desirable pattern of development or would offer substantial conformance with the planning objectives of the [village, city, town] or would maintain or enhance the conservation of natural or scenic resources.

SECTION 3. SEVERABILITY.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

SECTION 4. EFFECTIVE DATE.

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided by law.