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The field of planning and zoning law has evolved into a sophisticated and challenging practice area for both public and private sector attorneys. With goals of sustainability at the forefront of the land use regulatory agenda, this brief account of recent developments in land use law highlights some discernable trends. Part I of this article will explore the impacts on community development caused by the close to fifty statutory changes to New York State's planning and zoning enabling acts over the last two decades. Part II of this article will discuss affordable housing, which is a key area that continues to attract judicial attention and response at the local government level, but lacks needed state-level leadership. In addition, this section will examine recent trends in judicial decisions, innovative local laws, and the lack of meaningful state responses. Finally, Part III will look at how climate change considerations—a relative newcomer to the practice of land use law—are already testing the limits of planning and zoning creativity.

I. Modernization of the Planning and Zoning Enabling Statutes

In 1990, following several years of feedback from local government officials about the outdated planning and zoning enabling acts in New York, Senator Charles D. Cook, then Chair of the New York State Legislative Commission on Rural Resources, appointed a Land Use Advisory Committee for the purpose of undertaking a land use recodification or modernization

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project.[1] That more than forty statutory changes have been implemented in the last eighteen years due to this effort alone is significant,[2] given that New York's enabling statutes had not been comprehensively reviewed since they were first enacted in the 1930s.[3] While New York was not unique in having outdated planning and zoning enabling acts on the books,[4] the state was unique in its piecemeal, long-term approach to statutory change,[5] demonstrating sustained leadership over almost two decades (and still going).[6]

The statutory changes in New York can be organized into the following categories: smart growth and flexible zoning techniques,[7] codification of case law and modernization of basic enabling statutes,[8] intermunicipal cooperation,[9] coordination with

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1. James A. Coon et al., *The Land Use Recodification Project*, 13 PACE L. REV. 559, 561-62 (1993).

2. *See* N.Y. STATE LEGISLATIVE COMM'N ON RURAL RES., LAND USE TOOLS: A 2008 SURVEY OF LAND USE PLANNING & REGULATIONS IN N.Y.S., 231st Sess., at App. D (2008), *available at* http://www.senate.state.ny.us/SenateReports.nsf/6DD2F2819E02BB6185256EBD004E2D20/DD3D4F72731A168B852574C0004EDAE8/$file/luac08reportlowres.pdf?OpenElement.

3. Coon et al., *supra* note 1, at 567.

4. *See, e.g.*, GROWING SMART LEGISLATIVE GUIDEBOOK (Stuart Meck ed., 2002), *available at* http://www.planning.org/growingsmart/guidebook/print/index.htm.

5. Nationally, the 1990s witnessed a revolution in land use law reform, with an unprecedented number of statutory changes proposed. *See, e.g.*, Patricia Salkin, *Reform Proposals by the Thousand*, *in* PLANNING CMTY. FOR THE 21ST CENTURY 85, 85-100 (1999), *available at* http://myapa.planning.org/growingsmart/pdf/planningcommunities21st.pdf. Many states adopted wholesale reform of their land use control regimes in single pieces of legislation. *See* DENNY JOHNSON ET AL., AM. PLANNING ASS'N, PLANNING FOR SMART GROWTH: 2002 STATE OF THE STATES (2002), *available at* http://myapa.planning.org/growingsmart/pdf/states2002.pdf.

6. Patricia E. Salkin, *The Politics of Land Use Reform in New York: Challenges and Opportunities*, 73 ST. JOHN'S L. REV. 1041, 1062-63 (1999).

7. *See, e.g.*, Act of July 26, 1991, ch. 629, 1991 N.Y. Laws 629 (incentive zoning); Act of June 30, 1992, ch. 230, 1992 N.Y. Laws 230 (clarification of cluster development authority); Act of July 31, 1992, ch. 724, 1992 N.Y. Laws 724 (intermunicipal cooperation in planning); Act of July 29, 2003, ch. 213, 2003 N.Y. Laws 213 (authorization for planned unit development zoning).

8. *See, e.g.*, Act of Aug. 2, 1991, ch. 692, 1991 N.Y. Laws 692 (amending statutes on zoning boards of appeals including setting forth the statutory tests for the granting of use and area variances); Act of July 31, 1992, ch. 694, 1992 N.Y. Laws 694 (amending site plan review and special use permit laws for the purpose of clarifying state law); ch. 724, 1992 N.Y. Laws 724 (codifying specific authorization for intermunicipal cooperation); Act of Aug. 26, 1997, ch. 459, 1997 N.Y. Laws 459 (recodification and clarification of the General Municipal Law provisions dealing with referral requirements).

other state statutes,[10] and the resolution of various procedural issues.[11]

A. *Home Rule and Flexibility*

The signature approach to land use control in New York has been to delegate extensive discretionary authority to local governments, as opposed to directing or prescribing local action.[12] Most generally applicable land use laws New York adopts are designed to clarify local authority to enact such provisions and encourage localities to do so.[13] The presumption in New York, because of an extreme diversity of circumstances among its sixteen hundred localities, seems to be that flexibility is assumed and preemption is not intended in land use law making.[14] Further, most such laws respect this local diversity and recognize the need for differences in local approaches. The recent statutory codification efforts dealing with the definition of a "comprehensive plan" provide an example.[15]

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9. *See, e.g.*, ch. 724, 1992 N.Y. Laws 724 (intermunicipal cooperation in planning); Act of Aug. 26, 1997, ch. 451, 1997 N.Y. Laws 451 (modernization of the framework for county and regional planning agencies).

10. Coordination with the State Environmental Quality Review Act was made specifically clear in a number of the new statutes. *See, e.g.*, ch. 694, 1992 N.Y. Laws 694 (site plan and special use permits); Act of July 31, 1992, ch. 727, 1992 N.Y. Laws 727 (subdivision review); Act of July 26, 1994, ch. 486, 1994 N.Y. Laws 486 (same); Act of Aug. 2, 1995, ch. 418, 1995 N.Y. Laws 418 (generic environmental impact statements for comprehensive plans). Required coordination and recognition of agricultural districts was also addressed. *See, e.g.*, Act of July 24, 1992, ch. 534, 1992 N.Y. Laws 534; Act of July 22, 1998, ch. 411, 1998 N.Y. Laws 411; Act of Aug. 6, 2002, ch. 331, 2002 N.Y. Laws 331.

11. *See, e.g.*, Act of July 20, 1994, ch. 358, 1994 N.Y. Laws 358 (referral requirements to counties); Act of Sept. 7, 1999, ch. 476, 1999 N.Y. Laws 476 (procedures for filing of zoning decisions); Act of Aug. 30, 2000, ch. 391, 2000 N.Y. Laws 391 (same); Act of Dec. 3, 2002, ch. 662, 2002 N.Y. Laws 662 (clarification of voting requirements for planning and zoning boards); Act of Sept. 13, 2006, ch. 662, 2006 N.Y. Laws 662 (requirement for training for planning and zoning board members).

12. *See* N.Y. MUN. HOME RULE LAW § 10 (McKinney 1994).

13. *See, e.g.*, *id.* § 10(1)(ii) ("[E]very local government, as provided in this chapter, shall have power to adopt and amend local laws not inconsistent with the provisions of the constitution or not inconsistent with any general law . . . except to the extent that the legislature shall restrict the adoption of such a local law . . . .").

14. *See supra* notes 12-13 and accompanying text.

15. *See* Act of July 6, 1993, ch. 209, 1993 N.Y. Laws 209; Act of Aug. 2, 1995, ch. 418, 1995 N.Y. Laws 418.

Although zoning enabling acts had always required that zoning be in accordance with a "comprehensive plan"[16]—or in the case of a city, a "well considered" plan[17]—until 1993, there was no codified definition of a comprehensive plan, no suggestion of what a comprehensive plan should contain, and no process for the adoption of such a basic and critical component of a municipal land use regulatory scheme.[18] The authority to define a comprehensive plan and prescribe the content and process of those plans was implied in the delegation of the power to local governments to enact zoning restrictions and create zoning districts.[19] The statutory changes, while setting forth a clear uniform process for the adoption of the plan, provide a laundry list of items that *may* be included in a comprehensive plan.[20] Additionally, the revised statutes suggest, but do not require, that the plan be a written document, thereby enabling localities to continue to adopt plans to their own specifications and needs.[21] This is consistent with an important purpose of zoning: to ensure that it considers the character of areas and their suitability for particular uses with a view toward conserving the value of buildings and encouraging the most appropriate use of the land throughout the municipality.

These statutory changes echo the position of the courts, which have held that local governments may invent means of

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16. N.Y. TOWN LAW § 263 (McKinney 2003); N.Y. VILLAGE LAW § 7-700 (McKinney 1995).

17. N.Y. GEN. CITY LAW § 20 (McKinney 2003).

18. *See* ch. 209, 1993 N.Y. Laws 209.

19. *See* Udell v. Haas, 235 N.E.2d 897, 900-02 (N.Y. 1968).

20. *See* N.Y. TOWN LAW § 272-a(2)(a) (McKinney 2003) ("'[T]own comprehensive plan' means the materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports 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 town located outside the limits of any incorporated village or city."); N.Y. VILLAGE LAW § 7-722(2)(a) (McKinney 1995) ("[V]illage comprehensive plan" means the materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports 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 village.").

21. *See., e.g.*, N.Y. TOWN LAW § 272-a(1)(h) ("[I]t is the intent of the legislature to encourage but not to require, the preparation and adoption of a comprehensive plan pursuant to this section. Nothing herein shall be deemed to affect the status or validity of existing master plans, comprehensive plans, or land use plans.").

achieving the appropriate use of the land as part of their implied power to regulate land uses.[22] There are some cases, however, where courts are finding implied preemption—the notion that the legislature has regulated in such a pervasive way so as to implicitly preempt local action. The Court of Appeals recently found implied preemption with respect to the tests for variances. In *Cohen v. Board of Appeals of the Village of Saddle Rock*,[23] the Court of Appeals held that the "balancing" test for review of a variance application found in a particular New York statute preempts local standards.[24] Although this law contains no express language of preemption,[25] the statute's legislative history led the court to conclude that the legislature must have intended to so preempt.[26] It is doubtful that *Cohen* foreshadows a more aggressive judicial attitude toward the preemption of local land use prerogatives, and the fact remains that concern over "implied preemption" has not stymied local innovation.

II. Affordable Housing

New York courts had been silent on the subject of exclusionary housing until 1998, when the Westchester Supreme Court decided *Triglia v. Town of Cortlandt*,[27] declaring Cortlandt's zoning ordinance unconstitutionally exclusionary for failing to provide for the development of multi-family housing.[28] Approximately a decade later, in August 2008, the Second Department, in *Land Master Montgomery I, LLC v. Town of Montgomery*,[29] confirmed *Triglia*'s holding in a case with remarkably similar facts.[30] In *Land Master*, the court struck down Montgomery's zoning law after the town board eliminated all as-of-right provisions for multi-family development.[31] The court held that "the [town] failed to raise a triable issue of fact with re-

22. *See Udell*, 235 N.E.2d at 900-01 ("[T]he comprehensive plan is the essence of zoning. Without it, there can be no rational allocation of land use.").
23. 795 N.E.2d 619 (N.Y. 2003).
24. *Id. at* 621. *See also* N.Y. VILLAGE LAW § 7-712-b(3)(b) (McKinney 1995).
25. *See* N.Y. VILLAGE LAW § 7-712-b(3)(b).
26. *Cohen*, 795 N.E.2d at 624.
27. N.Y. L.J., Jan. 21, 1998, at 31, col. 2 (N.Y. Sup. Ct.).
28. *Id.*
29. 863 N.Y.S.2d 692 (App. Div. 2008).
30. *Id.* at 694.
31. *Id.*

spect to whether or not the challenged zoning was enacted without giving proper regard to local and regional housing needs and that it has an exclusionary effect . . . ."[32]

Both *Triglia* and *Land Master* build on the seminal 1975 Court of Appeals decision, *Berenson v. New Castle*,[33] which declared:

> The primary goal of a zoning ordinance must be to provide for the development of a balanced, cohesive community which will make efficient use of the town's available land. . . . [I]n enacting a zoning ordinance, consideration must be given to regional [housing] needs and requirements. . . . There must be a balancing of the local desire to maintain the *status quo* within the community and the greater public interest that regional needs be met.[34]

In conclusion, the *Berenson* court added:

> Zoning . . . is essentially a legislative act. Thus, it is quite anomalous that a court should be required to perform the tasks of a regional planner. To that end, we look to the Legislature to make appropriate changes in order to foster the development of programs designed to achieve sound regional planning."[35]

Despite this call to action, the affordable housing crisis has largely been ignored by the state legislature. But, in 2008, the legislature enacted the Long Island Workforce Housing Act, which requires, among other things, that proposed subdivisions for five or more residential or mixed use units in Nassau and Suffolk counties contain a set aside of at least ten percent of such units for affordable housing.[36] This new law, sponsored by

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32. *Id.*

33. 341 N.E.2d 236 (N.Y. 1975).

34. *Id.* at 241-42.

35. *Id.* at 243.

36. Ch. 444, 2008 N.Y. Laws 444 (codified as amended at N.Y. GEN. MUN. LAW §§ 699 to -C (McKinney Supp. 2009)). A comparable bill, sponsored by Adam Bradley (D) of the 89th Assembly District (Westchester County), would have imposed this same requirement on housing in his county. *See* ASSEMB. ADAM BRADLEY, N.Y. STATE ASSEMB., MEMORANDUM IN SUPPORT OF LEGISLATION, Assemb. 7849-B, 230th Sess. (N.Y. 2007).

Senate Majority Leader Dean Skelos,[37] may pave the way for statewide affordable housing initiatives in 2009.

Local governments, however, have not waited for the State, and they have developed a variety of rich examples of zoning laws that encourage or require affordable housing. For example, in 2006, the City of New Rochelle enacted a law that requires developers to set aside ten percent of the floor area of new developments for affordable housing units or pay a buyout fee into an affordable housing trust fund.[38] The incentive zoning law enacted in New York in 1991 has also been a tool employed by local governments to provide for affordable housing.[39] Based on these local initiatives, municipalities addressing this issue must decide, among other things: whether to encourage or require developers to provide affordable housing on- or off-site, or contribute to a local trust fund, whether such housing should be rental or for sale, how to structure income eligibility requirements for affordable units, whether to create a preference scheme for local workers, and how long to perpetuate the affordability of the newly created units.[40]

III. Climate Change

Although generally there has been a movement towards land use planning and zoning as part of the solution to slowing climate change,[41] the benefits and connections are still being framed. In recent years, there has been significant activity at the local level related to wind and solar power.[42] A number of

37. *See* SEN. DEAN SKELOS, N.Y. State S., Introducer's Memorandum in Support, S. 6823, 231st Sess., 2008 N.Y. Laws 444.

38. NEW ROCHELLE, N.Y., ZONING CODE ch. 331, art. XIX, § 152 (2006). The city joins an impressive number of other municipalities that have adopted similar laws. *See, e.g.*, TOWN OF BEDFORD, N.Y., ch. 125, art. III, § 125-29.6 (2005); TOWN OF GREENBURGH, N.Y., ch. 285, art. IV, § 285-41 (1996); VILLAGE OF HASTINGS-ON-HUDSON, N.Y., ch. 295, art. XII, § 295-112.1 (2001); VILLAGE OF PORT CHESTER, N.Y., ch. 345, art. IV, § 345-18 (2004); TOWN OF SOMERS, N.Y., ch. 170, art. XIA, §§ 170-60.1 to -60.7 (2008); CITY OF YONKERS, N.Y., ch. 43, art. XV, §§ 43-190 to -203 (Supp. 2008).

39. *See* Richard Kern, *Incentive Zoning Provides Opportunities for Community Amenities*, N.Y. ZONING L. & PRAC. REP., May/June 2007, at 1 (discussing the incentive zoning law).

40. *See supra* note 39 and accompanying text.

41. Although a discussion of climate change is beyond the scope of this article, see N.Y. ST. B. ASS'N GOV. L. & POL'Y J. (Summer 2008).

42. *See infra* Part III.A-B.

other areas also connect land use and climate change: biomass manufacturing and agricultural zones, small-scale hydro power techniques, transit-oriented development, green buildings laws, mitigation of green house gas emissions, and design requirements for green roofs and vegetation. New York recently adopted the State Green Building Construction Act, which requires that new state agency buildings be constructed to "minimiz[e] the consumption of energy and provid[e] for the efficient utilization of resources expended in the use and occupancy of the buildings . . . ."[43]

A. *Wind Energy*

One climate change mitigation technique available to local governments is permitting homeowners to install individual wind energy conversion systems. Individuals are beginning to install backyard wind turbines on towers fifty to seventy feet high that generate enough power for their household use.[44] Municipalities are adopting local laws that regulate and, to a certain extent, discourage both large and small wind energy conversion systems.[45] Such laws include comprehensive plan components that express local energy and environmental policies, moratoria that prevent wind facilities until they can be properly regulated, and a number of zoning, subdivision, site plan, special use permit, accessory use, license, overlay zone and use variance, and environmental review mechanisms to balance the benefits of wind generated power and the detrimental effects such facilities can have on the community.[46] Other local laws regulate spacing, height and setbacks, impose noise limits, require aesthetic controls, regulate the risk of personal injury and property damage, and require licenses or provide for

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43. Ch. 565, § 2, 2008 N.Y. Laws 565 (codified as amended at N.Y. ENERGY LAW § 13-107) (McKinney Supp. 2009) (effective Mar. 24, 2009)).

44. *See, e.g.*, *Maryland Couple Installs Wind Turbine in Backyard*, NEWS CHANNEL 8, Mar. 11, 2009, http://www.news8.net/news/stories/0309/602926.html.

45. *See* KATHERINE DANIELS, N.Y. STATE ENERGY RESEARCH & DEV. AUTH., WIND ENERGY DEVELOPMENT AND THE COMPREHENSIVE PLAN 3 (2005), *available at* http://www.powernaturally.org/Programs/Wind/toolkit/1_windenergydevplan.pdf.

46. *See id.* at 3-6.

de-commissioning.[47] Many of these issues related to the siting of wind farms are currently making their way through the court system.[48]

B. *Solar Energy*

The cooperation of local governments that enjoy nearly plenary authority to regulate private land uses is essential if solar power is to fulfill its potential to supply state energy needs and reduce greenhouse gas emissions. Local governments in New York have recently taken several approaches to encourage or limit the development of solar energy systems. These are found in various sections of local zoning codes, including: the purposes,[49] definitions,[50] height and setback provisions,[51] site plan

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47. *See* N.Y. STATE ENERGY RESEARCH & DEV. AUTH., EXAMPLES OF NY LOCAL GOVERNMENT LAWS/ZONING PROVISIONS ON WIND (2005), *available at* http://www.powernaturally.org/Programs/Wind/toolkit/3_revised.pdf.

48. *See* Todd M. Mathes, *2008 New York Wind Power Case Law Update*, N.Y. ZONING L. & PRAC. REP., Jan./Feb. 2008, at 1.

49. *See, e.g.*, VILLAGE OF ALBION, N.Y., CODE ch. 290, art. I, § 290-2 (2008); BEDFORD, N.Y., CODE ch. 125, art. I, § 125-1 (2008); BETHLEHEM, N.Y., CODE ch. 128, art. II, § 128-8 (2008); TOWN OF HAVERSTRAW, N.Y., CODE ch. 167, art. I, § 167-1 (2008); NEW WINDSOR, N.Y., CODE ch. 300, art. I, § 300-2 (2008); NYACK, N.Y., CODE ch. 59, art. I, § 59-1 (2008); OYSTER BAY, N.Y., CODE ch. 246, § 246-1.4 (2008); WAWARSING, N.Y., CODE ch. 112, art. I, § 112-2 (2008); TARRYTOWN, N.Y., CODE ch. 305, art. I, § 305-3 (2008).

50. *See, e.g.*, VILLAGE OF ALBION, N.Y., CODE ch. 290, art. II, § 290-12 (2008) ("Solar Access"); BRIARCLIFF MANOR, N.Y., CODE ch. 220, § 220-2 (2008) ("Solar Energy Collector"); TOWN OF ITHACA, N.Y., CODE ch. 270, art. III, § 270-5 (2008) ("Solar Storage Battery"); MASSENA, N.Y., CODE ch. 300, art. I, § 300-4 (2008) ("Solar Energy System"); NEWSTEAD, N.Y., CODE ch. 450, art. I, § 450-5 (2008) ("Solar Skyspace"); NISKAYUNA, N.Y., CODE ch. 220, art. II, § 220-4 (2008) ("Solar Energy System, Active"); VILLAGE OF WESTFIELD, N.Y., CODE ch. 155, art. II, § 155-6 (2008) ("Solar Energy"). As a way of imposing restrictions on the installation of solar equipment, other communities also include the term "solar equipment" within word usage or definition sections. *See, e.g.*, ALBANY, N.Y., CODE ch. 375, art. II, § 375-7 (2008) ("Rooftop Appurtenance"); TOWN OF ALBION, N.Y., CODE ch. 103, art. II, § 103-13 (2008) ("Alternative Energy Systems"); BALLSTON, N.Y., CODE ch. 138, art. II, § 138-3 (2008) ("Structure"); MASSENA, N.Y., CODE ch. 300, art. I, § 300-4 (2008) ("Building, Front Line Of").

51. *See, e.g.*, BEDFORD, N.Y., CODE ch. 125, art. 3, § 20 (2008); CARMEL, N.Y., CODE ch. 156, art. 2, § 12 (2008); OYSTER BAY, N.Y., CODE ch. 246, pt. 2, § 4.5 (2008); TARRYTOWN, N.Y., CODE ch. 305, art. 3, § 15 (2008); WEST BLOOMFIELD, N.Y., CODE ch. 140, art. 15, § 117 (2008); GREENBURGH, N.Y., CODE ch. 285, art. 4, § 40 (2008); NEWSTEAD, N.Y., CODE ch. 422, § 5 (2008); PERRY, N.Y., CODE ch. 490, art. 5, § 31 (2008).

and subdivision regulations,[52] special permits or accessory uses standards,[53] solar access requirements,[54] the regulation of trees,[55] exemptions and waivers,[56] design and installation controls,[57] favorable consideration in awarding variances,[58] and architectural review requirements.[59] In addition, some local laws encourage solar energy provisions through exemptions from certain fees.[60]

IV. Conclusion

There has never been a more challenging time to practice land use planning and zoning law in New York. The "law of the land" has been systematically modernized over the last two decades with a sustained effort to pursue statutory reforms, re-

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52. The following municipalities address solar devices in their site plan review: AUBURN, N.Y., CODE ch. 305, art. 2, § 13 (2008); NEW HARTFORD, N.Y., CODE ch. 118, art. 5, § 15 (2008); NEWSTEAD, N.Y., CODE ch. 450, art. 11, § 84 (2008); NEW WINDSOR, N.Y., CODE ch. 300, art. 14, § 86 (2008); TOWN OF EAST FISHKILL, N.Y., CODE ch 194, art. 7, § 26 (2008); VILLAGE OF MASSENA, N.Y., CODE ch. 300, art. 6, § 31 (2008); OYSTER BAY, N.Y., CODE pt. 2 ch. 246, § 6.10.2.7 (2008); TARRYTOWN, N.Y., CODE, ch. 305, art. 6, § 61 (2008); WESTBURY, N.Y., CODE ch. 248, art. 28, § 255 (2008). The following municipalities address solar devices in their subdivision regulations: WAWARSING, N.Y., CODE ch. 95, art. 4, § 23 (2008); WESTBURY, N.Y., CODE ch. 218, art. 5, § 22 (2008); BALLSTON, N.Y., CODE ch. 104, art. 4, § 14 (2008); TOWN OF COLONIE, N.Y., CODE ch. 166, art. 7, § 32 (2008); TOWN OF ITHACA, N.Y., CODE ch. 234, art. 5, § 34 (2008).

53. *See, e.g.*, ALBANY, N.Y., CODE ch. 375, arts. 10-12, §§ 61-83 (2008); OCEAN BEACH, N.Y., CODE ch. 164, art. V, § 32 (2008); BEDFORD, N.Y., CODE ch. 125, art. III, § 27 (2008); BRIGHTON, N.Y., CODE ch. 203, art. XX, § 146 (2008); VILLAGE OF MASSENA, N.Y., CODE ch. 300, art. II, §§ 5-7 (2008); TARRYTOWN, N.Y., CODE ch. 305, art. III, § 17 (2008); WAWARSING, N.Y., CODE ch. 112, art. IV, § 13 (2008).

54. *See, e.g.*, VILLAGE OF MASSENA, N.Y., CODE ch. 300, art. V, § 20 (2008); NEWSTEAD, N.Y., CODE ch. 450, art. IV, § 32 (2008); PERRY, N.Y., CODE ch. 490, art. V, § 30 (2008); WEST SENECA, N.Y. CODE ch. 120, art. III, § 35.1 (2008); WHITESTOWN, N.Y., CODE ch. 200, art. VII, § 32 (2008).

55. *See, e.g.*, BRIARCLIFF MANOR, N.Y., CODE ch. 202, § 5 (2008); CLARENCE, N.Y., CODE ch. 131, § 10 (2008).

56. *See, e.g.*, AMITYVILLE, N.Y., CODE ch. 183, art. VIA, § 79.4 (2008); TOWN OF BABYLON, N.Y., CODE ch. 213, art. XIIA, § 144.17 (2008).

57. *See, e.g.*, NEW HARTFORD, N.Y., CODE ch. 118, art. VIII, § 47 (2008); BRIGHTON, N.Y., CODE ch. 203, art. XII, § 168 (2008); NORTH SALEM, N.Y., CODE ch. 250, art. V, § 19.2 (2008).

58. *See, e.g.*, TOWN OF BATVIA, N.Y., CODE ch. 235, art. VII, § 62 (2008).

59. *See, e.g.*, BRIARCLIFF MANOR, N.Y., CODE ch. 5, § 6 (2008); GARDEN CITY, N.Y., CODE ch. 200, art. VII, § 45.3 (2008); SPRING VALLEY, N.Y., CODE ch. 255, art. X, § 38 (2008).

60. *See, e.g.*, ROTTERDAM, N.Y., CODE ch. 270, arts. XVII-XX, §§ 137.1-176 (2008).

quiring practitioners to keep conversant with updated regulatory tools and new processes.[61] The area of affordable housing, inextricably intertwined with local land use regulation, is perhaps finally getting some needed attention in the courts and in the state legislature.[62] Last, and perhaps most significant, calls for design and implementation of a new paradigm in community planning and regulatory controls to meet the challenges of slowing global warming and climate change at the local level are pushing lawyers and planners to be more thoughtful and creative in approaching land use law and decision making.[63]

61. *See supra* notes 1-6 and accompanying text.
62. *See supra* Part II.
63. *See supra* Part III.