

SAMPLE LOCAL LAW TO ESTABLISH A CONSERVATION ADVISORY COUNCIL

From: NYS DEC. 1997. Local Open Space Planning: A Guide to the Process. New York State Department of Environmental Conservation, Albany. NY. Partially funded by grant #X002767-01-0 from the US EPA.

This is a sample local law and some information about how to use it. Its purpose is to provide guidance for establishment of advisory agencies in local government to serve as focal points for matters concerning the preservation, protection and enhancement of the natural and human-made environment.

Legislative Authorization

Under the provisions of Section 10 of the Municipal Home Rule Law, all municipalities (counties, cities, towns and villages) have been authorized to adopt local laws to create (or discontinue) agencies and departments and assign such powers and duties to them as may be necessary to transact business. Further, municipalities specifically have been authorized in Section 10 to adopt local laws for the protection and enhancement of the physical and visual environment.

There is State-enabling legislation for conservation advisory councils in Section 239-x of the General Municipal Law, which provides for the creation of a council by any city, town or village. The provisions suggested in this sample local law are in harmony with the provisions of Section 239-x. Its adoption as a local law, in its present form or with minor modifications, provides a means whereby local governments may implement Section 239-x.

The conservation advisory council idea is not one which must be copied everywhere in one uniform or "correct" fashion in order to work successfully. Rather, the idea of establishing a focal point within local government for natural resources and open space planning and advocacy can be adapted to a diversity of local needs.

A LOCAL LAW to establish a conservation advisory council of the (City, Town or Village) of (name of municipality), pursuant to Section 239-x of the General Municipal Law.

Be it enacted by the (governing body) of the (City, Town or Village) of (name of municipality) as follows:

Section 1. Legislative intent. The preservation and improvement of the quality of the natural and human-made environment within the (City, Town or Village) of (name of municipality), in the face of population growth, urbanization and technologic change with their accompanying demands on natural resources and open land, are found to be of increasing and vital importance to the health, welfare and economic well-being of present and future inhabitants and require forthright action by the governing body of the (City, Town or Village) of (name of municipality). It is recognized that the biologic integrity of the natural environment on which people are dependent for survival and the natural and functional beauty of our surroundings which condition the quality of our life experience cannot be protected and improved without the full cooperation and participation of all the people of the (City, Town or Village) working in partnership with local and State officials and with various public and private institutions, agencies, and organizations. Establishment of a conservation council is a necessary step in fostering unified action on protection of natural resources, open space conservation and other environmental problems.

Section 2. Establishment of the council. The (governing body) of the (City, Town, or Village) of (name of municipality) hereby creates a conservation advisory council which shall be known as the (City, Town or Village) conservation advisory council, hereinafter called the council.

Section 3. Membership. (1) The council shall consist of members of which (number to be appointed; not less than three nor more than nine) shall be appointed by the (appointing authority) and who shall serve for two years, at the pleasure of (appointing authority) and the remainder shall be ex-officio members as provided herein. Persons residing within the (City, Town or Village) of who are interested in natural resources and open space conservation and the improvement and preservation or environmental quality shall be eligible for appointment as a member of the council. Vacancies on the council shall be filled in the same manner as the

original appointment except that a vacancy occurring other than by the expiration of term of office shall be filled only for the remainder of the unexpired term.

NOTE: At the discretion of the appointing authority, the membership may be diversified and special recognition may be given to the need for representation of certain groups on the council. For example, it may be desirable to appoint one or two persons in the 16 to 21 year old age group. Also, appropriate language may be inserted here to the effect that the terms of the members of the council shall be staggered. For example, if a nine member council is established, it could be provided that the first four members appointed shall hold office for a term of one year, the second five for a term of two years, and that the successors of all nine initial appointees shall be appointed for full terms of two years.

(2) One or more members of the governing body, the chairman of the planning board, commissioner of public work, commissioner of parks and recreation, (City, Town or Village) attorney and other officials that may be hereafter designated by the (appointing authority) shall be ex-officio members of the council.

NOTE: Include these or others, as desired. **No more than nine members may be voting members.** Specify whether ex-officio members are given the right to vote. Also indicate whether the ex-officio members may or may not send alternatives to attend meetings of the council.

Section 4. Officers, meetings and committees. The (appointing authority) shall designate a member of the council to act as chairperson thereof. At the first meeting of the council, its members shall elect from among themselves a recording secretary. The council shall adopt rules and procedures for its meetings. It shall keep accurate records of its meetings and activities and shall file an annual report as provided in section six of this local law.

NOTE: An outside secretary also might be obtained, one who would not be a member.

Section 5. Powers and duties of the council. The powers and duties of the council shall be to:

(1) Advise the (governing body) on matters affecting the preservation, development, and use of the natural and human-made resources, features and conditions of the (City, Town or Village) insofar as environmental quality, biological integrity, natural beauty, and other environmental factors are concerned. In the case of human activities and developments, advise on any major threats posed to environmental quality, so as to enhance the short term or the long range value of the environment to the people of the (City, Town or Village) of (name of municipality). (2) Conduct and maintain an inventory of the natural resources within the (City, Town or Village) of in map form, including an up-to-date index of all significant open spaces as defined in Section 239-y of the General Municipal Law in public or private ownership within the municipality, including but not limited to natural landmarks, glacial and other geomorphic or physiographic features; streams and their flood plains, watershed lands; swamps, marshlands and other wetlands; wildlife habitat, unique biotic communities; scenic and other open areas of natural or ecological value. The open space index shall include the ownership, present and proposed uses of open areas, so as to provide a base of information for recommendations by the council for their conservation purposes and for preparing an open space plan for the municipality. Such plan also shall include the municipality's overall goals for open space conservation and the specific recommendations and actions that should be taken by specified organizations and agencies to realize the goals. The plan should describe important issues, identify laws, programs and techniques for preserving, protecting, and enhancing open areas and serve to create a community open space system. (3) Seek to coordinate, assist and unify the efforts of private groups, institutions, and individuals within the (City, Town or Village) of in accord with the purposes of this local law. (4) Maintain liaison and communications with public and private agencies and organizations whose programs and activities have an impact on the quality of the environment or which can be of assistance to the council.

NOTE: Specific requests may be made to local organizations to designate one of their members as liaison to the council.

(5) Working in cooperation with the planning board, recommend from time to time to the (governing body) features, plans, and programs relating to natural resources management and environmental protection and improvement for inclusion in the comprehensive plan of the (City, Town or Village) of (name of municipality) and similarly recommend to the (governing body) appropriate and desirable changes in existing local laws and ordinances relating to environmental and land use controls or recommend new local laws and ordinances to

achieve the purposes of this local law. (6) Prepare, print, and distribute books, maps, charts, and pamphlets in accordance with the purposes of this local law. (7) Obtain and maintain in orderly fashion maps, reports, books, and other publications to support the necessary research of the commission in to local environmental conditions. (8) When authorized by resolution of the (governing body) of the (City. Town or Village) of (name of municipality), the council may accept by gift, grant, devise, bequest or otherwise, property both real and personal in the name of the (City, Town or Village) of (name of municipality) as may be necessary to conserve and otherwise properly utilize open spaces and other land. water and natural resources within the boundaries of the (City. Town or Village) of. Such real property may be accepted in fee, for land and water rights, or as any lesser interest, development right, easement, including conservation easement, covenant or other contractual right, including conveyance with limitations or reversions.

NOTE: Under the above provision, the council may accept gifts or grants, but only upon authorization by the governing body. Likewise, if a purchase is involved the power to make such purchase, by negotiation or appropriation, is vested in the governing body. Purchases may be effected in accordance with the provisions of existing laws as applicable to the city, town or village. The addition of a purchase provision in this local law is optional.

(9) Carry out such other duties *as* may be assigned from time to time by the (governing body).

Section 6. Reports. The council shall keep accurate records of its meetings and actions and shall submit an annual report to the (governing body) not later than the thirty-first day of December of each year, concerning the activities and work of the council. From time to time the council shall submit such reports and recommendations as may be necessary to fulfill the purpose of this local law.

Section 7. Compensation and expenses. The members of the council, including ex-officio members, shall receive no (optional by the municipality) compensation for their services as members thereof but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties within the appropriations made available therefor.

NOTE: The governing body of a municipality may appropriate funds for the expenses incurred by a council, including but not limited to expenses for professional staff, consultants, clerical assistance and printing and distribution of publications. The council should prepare and submit an annual budget request in the manner prescribed by the governing body. The governing body, upon request by the council, also may from time to time and for designated purposes, assign or detail public employees to perform work for the council.

Section 8. Construction. This local law shall be deemed an exercise of the powers of the (City, Town or Village) of to preserve and improve the quality of the natural and human-made environment on behalf of the present and future inhabitants thereof. This local law is not intended and shall not be deemed to impair the powers of any other public corporation.

Section 9. Effective date. This local law shall take effect on (date)

NOTE: A special date on which the local law shall become effective should be inserted here. This date should be subsequent to the date the local law is filed as required by the provisions of Municipal Home Rule Law, Section 27.