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The Ground Game: How Land-Use Ordinances Have Become the New Battleground for Natural Gas Extraction in the Marcellus Shale

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The use of zoning ordinances to exclude natural gas extraction presents many questions from a social perspective. It raises questions about basic property rights, the relationships between citizens and various levels of government, and how the benefits and burdens of the extraction affect the community, just to name a few. Again, the purpose of this note is not to weigh these social values and costs, but rather to look at how these laws fit within the traditional context of land use regulations and what differentiates them from a traditional land use case. This note will look at the differences in state regulations, how the municipalities have chosen to regulate industry use, and how courts in both New York and Pennsylvania have resolved these disputes. Finally, it will discuss implications for the future applications of land use controls as a means to exclude gas drilling both in the Marcellus and other gas-producing regions.

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