

3607

2009-2010 Regular Sessions

I N S E N A T E

March 25, 2009

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the town law, the general city law and the village law, in relation to the deferral of approval of subdivision plats and site plans in high growth areas

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 285 of the town law, as renumbered by chapter 724  
2 of the laws of 1992, is renumbered section 286 and a new section 285 is  
3 added to read as follows:

4 S 285. DEFERRAL OF PLAT AND SITE PLAN APPROVAL. 1. FOR THE PURPOSES OF  
5 THIS SECTION, "HIGH-GROWTH TOWN" SHALL MEAN A TOWN THAT HAS HAD A GROWTH  
6 RATE IN POPULATION OR HOUSING UNITS OF SIX PERCENT OR GREATER FOR THE  
7 PERIOD FROM NINETEEN HUNDRED NINETY TO TWO THOUSAND AS DETERMINED BY THE  
8 DECENNIAL FEDERAL CENSUS.

9 2. IN ANY HIGH-GROWTH TOWN, THE TOWN BOARD MAY AUTHORIZE THE PLANNING  
10 BOARD BY LOCAL LAW TO DEFER THE APPROVAL OF SUBDIVISION PLATS OR SITE  
11 PLANS, WHEN THE PLANNING BOARD DETERMINES THAT EXISTING FACILITIES FOR  
12 SCHOOLS, ROADS, ENERGY, PUBLIC SAFETY, INCLUDING FIRE AND POLICE  
13 PROTECTION, PUBLIC SEWER AND WATER, INCLUDING BOTH COLLECTION AND  
14 DISTRIBUTION LINES, TREATMENT CAPACITY, AND AVAILABILITY OF ADEQUATE  
15 WATER SUPPLY ARE INADEQUATE TO SUPPORT THE DEVELOPMENT WHEN IT IS BUILT  
16 OUT AS PROPOSED IN ANY PLAT OR SITE PLAN. NOTHING IN THIS SECTION SHALL  
17 PRECLUDE THE APPLICANT FROM ENTERING INTO AN ENFORCEABLE AGREEMENT WITH  
18 THE TOWN TO PAY FOR OR PROVIDE THE REQUIRED INFRASTRUCTURE.

19 3. PRIOR TO THE ADOPTION OF SUCH LOCAL LAW, THE TOWN BOARD SHALL ADOPT  
20 A CAPITAL FACILITIES PLAN THAT PROVIDES THE BASIS FOR AN OBJECTIVE  
21 DETERMINATION REGARDING THE INADEQUACY OF SUCH FACILITIES IN THE AREA OF  
22 THE PROPOSED DEVELOPMENT. THE TOWN SHALL EXERCISE DUE DILIGENCE TO  
23 INSURE THE IMPLEMENTATION OF SUCH CAPITAL FACILITIES PLAN IN A TIMELY  
24 MANNER.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 4. IN NO EVENT MAY A DEFERRAL PURSUANT TO THIS SECTION EXTEND BEYOND  
2 TWELVE YEARS FROM THE DATE OF FIRST DEFERRAL OF A PLAT OR SITE PLAN.

3 5. DURING THE DEFERRAL PERIOD, THE APPLICANT FOR A PLAT OR SITE PLAN  
4 APPROVAL SHALL BE ENTITLED TO THE APPROVAL OF A PLAT, OTHERWISE IN  
5 COMPLIANCE WITH APPLICABLE REGULATIONS, AT THE LOWEST DENSITY PERMITTED  
6 IN THE TOWN FOR ANY ZONING DISTRICT.

7 6. NOTHING CONTAINED IN THIS SECTION SHALL BE DEEMED TO AFFECT THE  
8 ABILITY OF A TOWN TO APPROVE OR DENY A SITE PLAN OR PLAT FOR ANY OTHER  
9 REASONS PERMITTED BY LAW.

10 7. THE APPRAISAL OF PROPERTY SUBJECT TO A DEFERRAL UNDER THIS SECTION  
11 SHALL BE CONDUCTED AS IF THE PROVISIONS OF THIS SECTION WERE NOT IN  
12 EFFECT.

13 S 2. The general city law is amended by adding a new section 27-c to  
14 read as follows:

15 S 27-C. DEFERRAL OF PLAT AND SITE PLAN APPROVAL. 1. FOR THE PURPOSES  
16 OF THIS SECTION, "HIGH-GROWTH CITY" SHALL MEAN A CITY THAT HAS HAD A  
17 GROWTH RATE IN POPULATION OR HOUSING UNITS OF SIX PERCENT OR GREATER FOR  
18 THE PERIOD FROM NINETEEN HUNDRED NINETY TO TWO THOUSAND AS DETERMINED BY  
19 THE DECENNIAL FEDERAL CENSUS.

20 2. IN ANY HIGH-GROWTH CITY, THE CITY COUNCIL MAY AUTHORIZE THE PLAN-  
21 NING BOARD BY LOCAL LAW TO DEFER THE APPROVAL OF SUBDIVISION PLATS OR  
22 SITE PLANS, WHEN THE PLANNING BOARD DETERMINES THAT EXISTING FACILITIES  
23 FOR SCHOOLS, ROADS, ENERGY, PUBLIC SAFETY, INCLUDING FIRE AND POLICE  
24 PROTECTION, PUBLIC SEWER AND WATER, INCLUDING BOTH COLLECTION AND  
25 DISTRIBUTION LINES, TREATMENT CAPACITY, AND AVAILABILITY OF ADEQUATE  
26 WATER SUPPLY ARE INADEQUATE TO SUPPORT THE DEVELOPMENT WHEN IT IS BUILT  
27 OUT AS PROPOSED IN ANY PLAT OR SITE PLAN. NOTHING IN THIS SECTION SHALL  
28 PRECLUDE THE APPLICANT FROM ENTERING INTO AN ENFORCEABLE AGREEMENT WITH  
29 THE CITY TO PAY FOR OR PROVIDE THE REQUIRED INFRASTRUCTURE.

30 3. PRIOR TO THE ADOPTION OF SUCH LOCAL LAW, THE CITY COUNCIL SHALL  
31 ADOPT A CAPITAL FACILITIES PLAN THAT PROVIDES THE BASIS FOR AN OBJECTIVE  
32 DETERMINATION REGARDING THE INADEQUACY OF SUCH FACILITIES IN THE AREA OF  
33 THE PROPOSED DEVELOPMENT. THE CITY SHALL EXERCISE DUE DILIGENCE TO  
34 INSURE THE IMPLEMENTATION OF SUCH CAPITAL FACILITIES PLAN IN A TIMELY  
35 MANNER.

36 4. IN NO EVENT MAY A DEFERRAL PURSUANT TO THIS SECTION EXTEND BEYOND  
37 TWELVE YEARS FROM THE DATE OF FIRST DEFERRAL OF A PLAT OR SITE PLAN.

38 5. DURING THE DEFERRAL PERIOD, THE APPLICANT FOR A PLAT OR SITE PLAN  
39 APPROVAL SHALL BE ENTITLED TO THE APPROVAL OF A PLAT, OTHERWISE IN  
40 COMPLIANCE WITH APPLICABLE REGULATIONS, AT THE LOWEST DENSITY PERMITTED  
41 IN THE TOWN FOR ANY ZONING DISTRICT.

42 6. NOTHING CONTAINED IN THIS SECTION SHALL BE DEEMED TO AFFECT THE  
43 ABILITY OF THE PLANNING BOARD TO APPROVE OR DENY A SITE PLAN OR PLAT FOR  
44 ANY OTHER REASONS PERMITTED BY LAW.

45 7. THE APPRAISAL OF PROPERTY SUBJECT TO A DEFERRAL UNDER THIS SECTION  
46 SHALL BE CONDUCTED AS IF THE PROVISIONS OF THIS SECTION WERE NOT IN  
47 EFFECT.

48 S 3. The village law is amended by adding a new section 7-733 to read  
49 as follows:

50 S 7-733 DEFERRAL OF PLAT AND SITE PLAN APPROVAL. 1. FOR THE PURPOSES  
51 OF THIS SECTION, "HIGH-GROWTH VILLAGE" SHALL MEAN A VILLAGE THAT HAS HAD  
52 A GROWTH RATE IN POPULATION OR HOUSING UNITS OF SIX PERCENT OR GREATER  
53 FOR THE PERIOD FROM NINETEEN HUNDRED NINETY TO TWO THOUSAND AS DETER-  
54 MINED BY THE DECENNIAL FEDERAL CENSUS.

55 2. IN ANY HIGH-GROWTH VILLAGE, THE VILLAGE BOARD MAY AUTHORIZE THE  
56 PLANNING BOARD BY LOCAL LAW TO DEFER THE APPROVAL OF SUBDIVISION PLATS

1 OR SITE PLANS, WHEN THE PLANNING BOARD DETERMINES THAT EXISTING FACILI-  
2 TIES FOR SCHOOLS, ROADS, ENERGY, PUBLIC SAFETY, INCLUDING FIRE AND  
3 POLICE PROTECTION, PUBLIC SEWER AND WATER, INCLUDING BOTH COLLECTION AND  
4 DISTRIBUTION LINES, TREATMENT CAPACITY, AND AVAILABILITY OF ADEQUATE  
5 WATER SUPPLY ARE INADEQUATE TO SUPPORT THE DEVELOPMENT WHEN IT IS BUILT  
6 OUT AS PROPOSED IN ANY PLAT OR SITE PLAN. NOTHING IN THIS SECTION SHALL  
7 PRECLUDE THE APPLICANT FROM ENTERING INTO AN ENFORCEABLE AGREEMENT WITH  
8 THE VILLAGE TO PAY FOR OR PROVIDE THE REQUIRED INFRASTRUCTURE.

9 3. PRIOR TO THE ADOPTION OF SUCH LOCAL LAW, THE VILLAGE BOARD SHALL  
10 ADOPT A CAPITAL FACILITIES PLAN THAT PROVIDES THE BASIS FOR AN OBJECTIVE  
11 DETERMINATION REGARDING THE INADEQUACY OF SUCH FACILITIES IN THE AREA OF  
12 THE PROPOSED DEVELOPMENT. THE VILLAGE SHALL EXERCISE DUE DILIGENCE TO  
13 INSURE THE IMPLEMENTATION OF SUCH CAPITAL FACILITIES PLAN IN A TIMELY  
14 MANNER.

15 4. IN NO EVENT MAY A DEFERRAL PURSUANT TO THIS SECTION EXTEND BEYOND  
16 TWELVE YEARS FROM THE DATE OF FIRST DEFERRAL OF A PLAT OR SITE PLAN.

17 5. DURING THE DEFERRAL PERIOD, THE APPLICANT FOR A PLAT OR SITE PLAN  
18 APPROVAL SHALL BE ENTITLED TO THE APPROVAL OF A PLAT, OTHERWISE IN  
19 COMPLIANCE WITH APPLICABLE REGULATIONS, AT THE LOWEST DENSITY PERMITTED  
20 IN THE VILLAGE FOR ANY ZONING DISTRICT.

21 6. NOTHING CONTAINED IN THIS SECTION SHALL BE DEEMED TO AFFECT THE  
22 ABILITY OF A VILLAGE TO APPROVE OR DENY A SITE PLAN OR PLAT FOR ANY  
23 OTHER REASONS PERMITTED BY LAW.

24 7. THE APPRAISAL OF PROPERTY SUBJECT TO A DEFERRAL UNDER THIS SECTION  
25 SHALL BE CONDUCTED AS IF THE PROVISIONS OF THIS SECTION WERE NOT IN  
26 EFFECT.

27 S 4. If any clause, sentence, paragraph, section or part of this act  
28 shall be adjudged by any court of competent jurisdiction to be invalid,  
29 such judgment shall not affect, impair or invalidate the remainder ther-  
30 eof, but shall be confined in its operation to the clause, sentence,  
31 paragraph, section or part thereof directly involved in the controversy  
32 in which such judgment shall have been rendered.

33 S 5. This act shall take effect immediately.