

# STATE OF NEW YORK

6871

2019-2020 Regular Sessions

## IN ASSEMBLY

March 22, 2019

Introduced by M. of A. M. G. MILLER -- read once and referred to the  
Committee on Local Governments

AN ACT to amend the general municipal law, in relation to the site  
selection of community facilities in cities with a population of one  
million or more

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The general municipal law is amended by adding a new  
2 section 239-j to read as follows:

3 § 239-j. Site selection of community facilities in cities with a popu-  
4 lation of one million or more. 1. For the purposes of this section, the  
5 following definitions shall apply:

6 (a) "Community facility" shall include the following facilities:

7 (i) "group homes" shall mean supportive living facilities with four to  
8 fourteen residents or a supervised living facility subject to licensure  
9 by the office of mental health or the office for people with develop-  
10 mental disabilities which provides a residence for up to fourteen indi-  
11 viduals with mental disabilities, including residential treatment facil-  
12 ities for children and youth;

13 (ii) homeless shelters;

14 (iii) "detention centers" shall mean any place operated by the depart-  
15 ment of corrections and community supervision and designated by the  
16 commissioner of corrections and community supervision as a place for the  
17 confinement of persons under sentence of imprisonment or persons commit-  
18 ted for failure to pay a fine;

19 (iv) drug rehabilitation/detoxification centers;

20 (v) halfway houses;

21 (vi) wastewater treatment plants;

22 (vii) sewage facilities;

23 (viii) waste transfer stations;

24 (ix) landfills;

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

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1 (x) power plants; and

2 (xi) chemical processing plants;

3 (b) "Sponsoring agency" shall mean an agency or unit of government, a  
4 voluntary agency or any other person or organization which intends to  
5 establish or operate a community facility;

6 (c) "Municipality" shall mean the city, if such city has a population  
7 of one million or more, except that in the city of New York, the commu-  
8 nity board with jurisdiction over the area in which such a facility is  
9 to be located shall be considered the municipality;

10 (d) "Commissioner" means the commissioner of the office of the depart-  
11 ment responsible for issuance of license and operating certificate to  
12 the proposed community facility.

13 2. If a sponsoring agency intends to establish a community facility  
14 within a municipality but does not have a specific site selected, it may  
15 notify the chief executive officer of the municipality in writing of its  
16 intentions and include in such notice a description of the nature, size  
17 and community support requirements of the program. Provided, however,  
18 nothing in this subdivision shall preclude the proposed establishment of  
19 a site pursuant to subdivision three of this section.

20 3. (a) When a site has been selected by the sponsoring agency, it  
21 shall notify the chief executive officer of the municipality in writing  
22 and include in such notice the specific address of the site, the type of  
23 community residence, the number of residents and the community support  
24 requirements of the program. Such notice shall also contain the most  
25 recently published data compiled pursuant to section four hundred  
26 sixty-three of the social services law which can reasonably be expected  
27 to permit the municipality to evaluate all such facilities affecting the  
28 nature and character of the area wherein such proposed facility is to be  
29 located.

30 (b) The municipality shall have forty days after the receipt of such  
31 notice to:

32 (i) approve the site recommended by the sponsoring agency;

33 (ii) suggest one or more suitable sites within its jurisdiction which  
34 could accommodate such a facility; or

35 (iii) object to the establishment of a facility of the kind described  
36 by the sponsoring agency because to do so would result in such a concen-  
37 tration of such community facilities in the municipality or in the area  
38 in proximity to the site selected or a combination of such facilities  
39 with other similar community facilities licensed by other agencies of  
40 state government, that the nature and character of the areas within the  
41 municipality would be substantially altered.

42 Such response shall be forwarded to the sponsoring agency and the  
43 commissioner. If the municipality does not respond within forty days,  
44 the sponsoring agency may establish a community facility at a site  
45 recommended in its notice.

46 (c) Prior to forwarding a response to the sponsoring agency and the  
47 commissioner, the municipality may hold a public hearing pursuant to  
48 local law.

49 (d) If the municipality approves the site recommended by the spons-  
50 oring agency, the sponsoring agency shall seek to establish the facility  
51 at the approved site.

52 (e) (i) If the site or sites suggested by the municipality are satis-  
53 factory with regard to the nature, size and community support require-  
54 ments of the program of the proposed facility and the area in which such  
55 site or sites are located does not already include an excessive number  
56 of such community facilities or similar facilities licensed by other

1 state agencies, the sponsoring agency shall seek to establish its facil-  
2 ity at one of the sites designated by the municipality.

3 (ii) If the municipality suggests a site or sites which are not satis-  
4 factory to the sponsoring agency, the agency shall so notify the munici-  
5 pality which shall have fifteen days to suggest an alternative site or  
6 sites for the proposed community facility.

7 (f)(i) In the event the municipality objects to establishment of a  
8 facility in the municipality because to do so would result in a concen-  
9 tration of such community facilities and other facilities licensed by  
10 other state agencies that the nature and character of areas within the  
11 municipality would be substantially altered; or the sponsoring agency  
12 objects to the establishment of a facility in the area or areas  
13 suggested by the municipality; or in the event that the municipality and  
14 sponsoring agency cannot agree upon a site, either the sponsoring agency  
15 or the municipality may request an immediate hearing before the commis-  
16 sioner to resolve the issue. The commissioner shall personally or by a  
17 hearing officer conduct such a hearing within fifteen days of such a  
18 request.

19 (ii) If the objection is a result of anticipated community facility  
20 concentration, the sponsoring agency should amend their request prior to  
21 such hearing to include a community benefits agreement that has been  
22 approved by the city. Such city should make every effort to reach such  
23 agreement. Such agreement shall offer three additional improvements of  
24 equal or greater value as the initial community facility request for the  
25 municipality to choose from. The municipality will then have the oppor-  
26 tunity to reassess the sponsoring agency's request. Any and all funding  
27 for such additional improvements outlined in the community benefits  
28 agreement shall be the responsibility of the city. If after reevalua-  
29 tion the municipality continues to object, the hearing process shall  
30 continue as established.

31 (iii) In reviewing any such objections, the need for such facilities  
32 in the municipality shall be considered as shall the existing concen-  
33 tration of such facilities and other similar facilities licensed by  
34 other state agencies in the municipality or in the area in proximity to  
35 the site selected and any other facilities in the municipality or in the  
36 area in proximity to the site selected providing such services. The  
37 commissioner shall sustain the objection if he determines that the  
38 nature and character of the area in which the facility is to be based  
39 would be substantially altered as a result of establishment of the  
40 facility. The commissioner shall make a determination within thirty days  
41 of the hearing.

42 4. Review of a decision rendered by a commissioner pursuant to this  
43 section may be had in a proceeding pursuant to article seventy-eight of  
44 the civil practice law and rules commenced within thirty days of the  
45 determination of the commissioner.

46 5. A licensing authority shall not issue an operating certificate to a  
47 sponsoring agency for operation of a facility if the sponsoring agency  
48 does not notify the municipality of its intention to establish a program  
49 as required by subdivision three of this section. Any operating certif-  
50 icate issued without compliance with the provisions of this section  
51 shall be considered null and void and continued operation of the facili-  
52 ty may be enjoined.

53 § 2. This act shall take effect immediately.