

# STATE OF NEW YORK

9246

## IN ASSEMBLY

February 9, 2022

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

AN ACT to amend the general city law, the village law and the town law, in relation to limiting a municipality's authority to impose certain zoning requirements

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

1 Section 1. Subdivision 24 of section 20 of the general city law, as  
2 amended by chapter 742 of the laws of 1979, is amended to read as  
3 follows:

4 24. ~~[Te]~~ (a) Except as provided in paragraph (b) of this subdivision,  
5 to regulate and limit the height, bulk and location of buildings here-  
6 after erected, to regulate and determine the area of yards, courts and  
7 other open spaces, and to regulate the density of population in any  
8 given area, and for said purposes to divide the city into districts.  
9 Such regulations shall be uniform for each class of buildings throughout  
10 any district, but the regulations in one or more districts may differ  
11 from those in other districts. Such regulations shall be designed to  
12 secure safety from fire, flood and other dangers and to promote the  
13 public health and welfare, including, so far as conditions may permit,  
14 provision for adequate light, air, convenience of access, and the accom-  
15 modation of solar energy systems and equipment and access to sunlight  
16 necessary therefor, and shall be made with reasonable regard to the  
17 character of buildings erected in each district, the value of land and  
18 the use to which it may be put, to the end that such regulations may  
19 promote public health, safety and welfare and the most desirable use for  
20 which the land of each district may be adapted and may tend to conserve  
21 the value of buildings and enhance the value of land throughout the  
22 city.

23 (b) Notwithstanding any provision of law to the contrary, no city  
24 shall:

25 (i) establish a minimum lot size of more than one thousand two hundred  
26 square feet;

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

LBD13949-01-1

1 (ii) require the construction of off-street parking spaces as a condi-  
2 tion of permitting construction of any building, except that a city may  
3 require the construction of an off-street area for the loading and  
4 unloading of freight or other deliveries;

5 (iii) prohibit the construction and occupation of a dwelling for four  
6 or fewer families on a single lot, or impose restrictions on height,  
7 setbacks, floor area ratios or any similar metric that effectively  
8 prevent the construction or occupation of such a dwelling, in any  
9 district in which residential construction and occupation is otherwise  
10 permitted; or

11 (iv) prohibit the construction and occupation of a dwelling for six or  
12 fewer families on a single lot, or impose restrictions on height,  
13 setbacks, floor area ratios or any similar metric that effectively  
14 prevent the construction or occupation of such a dwelling, on a lot in  
15 any district in which residential construction and occupation is other-  
16 wise permitted if such lot is within one quarter mile of any commuter  
17 rail or subway station owned, operated or otherwise served by the metro-  
18 politan transportation authority, the port authority of New York and New  
19 Jersey, or the New Jersey transit corporation.

20 § 2. Section 7-700 of the village law is amended to read as follows:

21 § 7-700 Grant of power. [~~For~~] 1. Except as provided in subdivision two  
22 of this section, for the purpose of promoting the health, safety,  
23 morals, or the general welfare of the community, the board of trustees  
24 of a village is hereby empowered, by local law, to regulate and restrict  
25 the height, number of stories and size of buildings and other struc-  
26 tures, the percentage of lot that may be occupied, the size of yards,  
27 courts and other open spaces, the density of population, and the  
28 location and use of buildings, structures and land for trade, industry,  
29 residence or other purposes. As a part of the comprehensive plan and  
30 design, the village board is empowered by local law, to regulate and  
31 restrict certain areas as national historic landmarks, special historic  
32 sites, places and buildings for the purpose of conservation, protection,  
33 enhancement and perpetuation of these places of natural heritage. Such  
34 regulations shall provide that a board of appeals may determine and vary  
35 their application in harmony with the general purpose and intent, and in  
36 accordance with general or specific rules therein contained.

37 2. Notwithstanding any provision of law to the contrary, no village  
38 shall:

39 a. establish a minimum lot size of more than one thousand two hundred  
40 square feet;

41 b. require the construction of off-street parking spaces as a condi-  
42 tion of permitting construction of any building, except that a village  
43 may require the construction of an off-street area for the loading and  
44 unloading of freight or other deliveries;

45 c. prohibit the construction and occupation of a dwelling for two or  
46 fewer families on a single lot, or impose restrictions on height,  
47 setbacks, floor area ratios or any similar metric that effectively  
48 prevent the construction or occupation of such a dwelling, in any  
49 district in which residential construction and occupation is otherwise  
50 permitted; or

51 d. prohibit the construction and occupation of a dwelling for six or  
52 fewer families on a single lot, or impose restrictions on height,  
53 setbacks, floor area ratios or any similar metric that effectively  
54 prevent the construction or occupation of such a dwelling, on a lot in  
55 any district in which residential construction and occupation is other-  
56 wise permitted if such lot is within one quarter mile of any commuter

1 rail or subway station owned, operated or otherwise served by the metro-  
2 politan transportation authority, the port authority of New York and New  
3 Jersey, or the New Jersey transit corporation.

4 § 3. Section 261 of the town law, as amended by chapter 458 of the  
5 laws of 1997, is amended to read as follows:

6 § 261. Grant of power; appropriations for certain expenses incurred  
7 under this article. [~~For~~] 1. Except as provided in subdivision two of  
8 this section, for the purpose of promoting the health, safety, morals,  
9 or the general welfare of the community, the town board is hereby  
10 empowered by local law or ordinance to regulate and restrict the height,  
11 number of stories and size of buildings and other structures, the  
12 percentage of lot that may be occupied, the size of yards, courts, and  
13 other open spaces, the density of population, and the location and use  
14 of buildings, structures and land for trade, industry, residence or  
15 other purposes; provided that such regulations shall apply to and affect  
16 only such part of a town as is outside the limits of any incorporated  
17 village or city; provided further, that all charges and expenses  
18 incurred under this article for zoning and planning shall be a charge  
19 upon the taxable property of that part of the town outside of any incor-  
20 porated village or city. The town board is hereby authorized and  
21 empowered to make such appropriation as it may see fit for such charges  
22 and expenses, provided however, that such appropriation shall be the  
23 estimated charges and expenses less fees, if any, collected, and  
24 provided, that the amount so appropriated shall be assessed, levied and  
25 collected from the property outside of any incorporated village or city.  
26 Such regulations may provide that a board of appeals may determine and  
27 vary their application in harmony with their general purpose and intent,  
28 and in accordance with general or specific rules therein contained.

29 2. Notwithstanding any provision of law to the contrary, no town  
30 shall:

31 a. establish a minimum lot size of more than five thousand square feet  
32 if a lot has access to sewer and water infrastructure; or

33 b. establish a minimum lot size of more than twenty thousand square  
34 feet in any area.

35 § 4. This act shall take effect on the one hundred eightieth day after  
36 it shall have become a law; provided that any city, town or village that  
37 has a local law, regulation or other policy that does not comply with  
38 the provisions of this act shall, prior to the effective date of this  
39 act, take any action necessary to ensure compliance with this act upon  
40 the effective date of the act.