

# STATE OF NEW YORK

5700

2023-2024 Regular Sessions

## IN ASSEMBLY

March 22, 2023

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. ~~[To]~~ (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:

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

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

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

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

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

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

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

39 2. Notwithstanding any provision of law to the contrary, no village  
40 shall:

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

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

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

53 d. prohibit the construction and occupation of a dwelling for six or  
54 fewer families on a single lot, or impose restrictions on height,  
55 setbacks, floor area ratios or any similar metric that effectively  
56 prevent the construction or occupation of such a dwelling, on a lot in

1 any district in which residential construction and occupation is other-  
2 wise permitted if such lot is within one quarter mile of any commuter  
3 rail or subway station owned, operated or otherwise served by the metro-  
4 politan transportation authority, the port authority of New York and New  
5 Jersey, or the New Jersey transit corporation.

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

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

31 2. Notwithstanding any provision of law to the contrary, no town  
32 shall:

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

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

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