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:

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

24. [~~To~~] **(a) Except as provided in paragraph (b) of this subdivision, to** regulate and limit the height, bulk and location of buildings hereafter erected, to regulate and determine the area of yards, courts and other open spaces, and to regulate the density of population in any given area, and for said purposes to divide the city into districts. Such regulations shall be uniform for each class of buildings throughout any district, but the regulations in one or more districts may differ from those in other districts. Such regulations shall be designed to secure safety from fire, flood and other dangers and to promote the public health and welfare, including, so far as conditions may permit, provision for adequate light, air, convenience of access, and the accommodation of solar energy systems and equipment and access to sunlight necessary therefor, and shall be made with reasonable regard to the character of buildings erected in each district, the value of land and the use to which it may be put, to the end that such regulations may promote public health, safety and welfare and the most desirable use for which the land of each district may be adapted and may tend to conserve the value of buildings and enhance the value of land throughout the city.

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

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

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

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

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

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

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

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

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

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

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

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

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

any district in which residential construction and occupation is otherwise permitted if such lot is within one quarter mile of any commuter rail or subway station owned, operated or otherwise served by the metropolitan transportation authority, the port authority of New York and New Jersey, or the New Jersey transit corporation.

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

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

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

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

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

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