

STATE OF NEW YORK

7197

2025-2026 Regular Sessions

IN SENATE

April 3, 2025

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, the New York city fire code, the town law and the village law, in relation to setback and financial requirements relating to the siting of battery energy storage systems

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

1 Section 1. The public service law is amended by adding a new section
2 74-c to read as follows:

3 § 74-c. Municipal assistance. 1. The department, in coordination with
4 the office of renewable energy siting and electric transmission, the New
5 York state energy research and development authority, and the department
6 of state, shall prepare and make available to municipalities, informa-
7 tion relating to the siting of battery energy storage systems with a
8 capacity over five megawatts, including, but not limited to, model local
9 laws, regulations, or ordinances related to:

10 (a) setback requirements, which shall be at least one thousand feet
11 from a dwelling, house, farm building, or school building that is actu-
12 ally occupied or used. Such setback requirements may vary based on the
13 capacity of the battery energy storage system and may set a further
14 distance appropriate to ensure the safety of any occupants against fire
15 or other potential reasonable dangers.

16 (b) financial surety requirements that may consider: any combination
17 of insurance, guarantee, surety bond, letter of credit, or qualifica-
18 tions as a self insurer; the appropriate amount of financial surety; and
19 the inclusion of provisions that specify policy or other contractual
20 terms, conditions, or defenses necessary or unacceptable in establishing
21 evidence of financial surety.

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

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1 (c) zoning requirements which shall only be permitted on properties
2 designated for industrial use, in accordance with applicable local or
3 municipal zoning and land use regulations.

4 2. For purposes of this section, "battery energy storage system" shall
5 have the same meaning as "qualified energy storage system" as defined in
6 subdivision one of section seventy-four of this chapter, except that it
7 shall not include energy storage systems that use mechanical or thermal
8 processes.

9 § 2. Section 104.1.2 of the New York city fire code, as amended by
10 local law number 47 of the city of New York for the year 2022, is
11 amended to read as follows:

12 104.1.2 Review of design and installation. The commissioner may
13 authorize the Department of Buildings to review construction documents
14 filed with that agency for compliance with the design and installation
15 requirements of this code for stationary energy storage systems, fire
16 apparatus access roads, rooftop access and obstructions, and such other
17 design and installation requirements as the commissioner, in consulta-
18 tion with the Commissioner of Buildings, may determine facilitates the
19 design and construction process. The commissioner shall require the
20 establishment of minimum setback requirements for commercial energy
21 storage systems, with a capacity of five megawatts or greater, of no
22 less than one thousand feet from residential property. The manner and
23 scope of such review and the standards to be applied thereto shall be
24 established by the commissioner in consultation with the Commissioner of
25 Buildings, consistent with FC104.2.1.

26 § 3. Section 104.2 of the New York city fire code, as amended by local
27 law number 47 of the city of New York for the year 2022, is amended to
28 read as follows:

29 104.2 Applications and approvals. The department shall receive, review
30 and, if satisfactory, approve, applications for permits, certificates
31 and other approvals, and design and installation documents required to
32 be submitted to the department by this code or the construction codes,
33 issue permits, inspect buildings, structures, facilities, premises,
34 marine vessels, watercraft and motor vehicles for the purpose of enforc-
35 ing compliance with the requirements of this code, and otherwise admin-
36 ister, implement and enforce the provisions of this code. When review-
37 ing applications for commercial energy storage systems, with a capacity
38 of five megawatts or greater, the department shall ensure that prior to
39 the approval of any application for any applicable permit, request for
40 tax exemption, or commencement of any other regulatory approval process,
41 at least one public hearing has been held in the community district in
42 which such storage is proposed to be sited. The department shall also
43 develop requirements for applicants to provide evidence of financial
44 surety.

45 § 4. Section 263 of the town law, as amended by chapter 459 of the
46 laws of 2021, is amended to read as follows:

47 § 263. Purposes in view. 1. Such regulations shall be made in accord-
48 ance with a comprehensive plan and designed to lessen congestion in the
49 streets; to secure safety from fire, flood, panic and other dangers; to
50 promote health and general welfare; to provide adequate light and air;
51 to prevent the overcrowding of land; to avoid undue concentration of
52 population; to make provision for, so far as conditions may permit, the
53 accommodation of solar thermal, photovoltaics, wind, hydroelectric,
54 geothermal electric, geothermal ground source heat, tidal energy, wave
55 energy, ocean thermal, farm waste electric generating equipment as
56 defined in paragraph (e) of subdivision one of section sixty-six-j of

1 the public service law, [~~and~~] fuel cells, and battery energy storage
2 systems as defined in section seventy-four-c of the public service law;
3 to facilitate the practice of forestry; to facilitate the adequate
4 provision of transportation, water, sewerage, schools, parks and other
5 public requirements. Such regulations shall be made with reasonable
6 consideration, among other things, as to the character of the district
7 and its peculiar suitability for particular uses, and with a view to
8 conserving the value of buildings and encouraging the most appropriate
9 use of land throughout such municipality.

10 2. Regulations related to battery energy storage systems as defined in
11 section seventy-four-c of the public service law may include, but shall
12 not be limited to, minimum setback requirements from residential proper-
13 ty and financial security pursuant to section seventy-four-c of the
14 public service law.

15 § 5. Section 7-704 of the village law, as amended by chapter 459 of
16 the laws of 2021, is amended to read as follows:

17 § 7-704 Purposes in view. 1. Such regulations shall be made in accord-
18 ance with a comprehensive plan and designed to lessen congestion in the
19 streets; to secure safety from fire, panic, floods and other dangers; to
20 promote health and the general welfare; to provide adequate light and
21 air; to prevent the overcrowding of land; to avoid undue concentration
22 of population; to make provision for, so far as conditions may permit,
23 the accommodation of solar thermal, photovoltaics, wind, hydroelectric,
24 geothermal electric, geothermal ground source heat, tidal energy, wave
25 energy, ocean thermal, farm waste electric generating equipment as
26 defined in paragraph (e) of subdivision one of section sixty-six-j of
27 the public service law [~~and~~], fuel cells, and battery energy storage
28 systems as defined in section seventy-four-c of the public service law;
29 to facilitate the adequate provision of transportation, water, sewerage,
30 schools, parks and other public requirements. Such regulations shall be
31 made with reasonable consideration, among other things, as to the char-
32 acter of the district and its peculiar suitability for particular uses,
33 and with a view to conserving the value of buildings and encouraging the
34 most appropriate use of land throughout such municipality.

35 2. Regulations related to battery energy storage systems as defined in
36 section seventy-four-c of the public service law may include, but not to
37 be limited to, minimum setback requirements from residential property
38 and financial security pursuant to section seventy-four-c of the public
39 service law.

40 § 6. Notwithstanding the amendments to section 263 of the town law
41 made by section three of this act and the amendments to section 7-704 of
42 the village law made by section four of this act, nothing in this act
43 shall be construed to require any town or village to amend applicable
44 local building code or zoning regulations.

45 § 7. This act shall take effect on the one hundred eightieth day after
46 it shall have become a law and shall only apply to comprehensive plans
47 established or amended on or after such effective date.