

STATE OF NEW YORK

7197--B

2025-2026 Regular Sessions

IN SENATE

April 3, 2025

Introduced by Sens. ADDABBO, COMRIE, SCARCELLA-SPANTON, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 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 three megawatts, including, but not limited to, model
9 local laws, regulations, or ordinances related to, setback requirements
10 which shall be at least seven hundred fifty feet from a dwelling, house,
11 farm building, or school building that is actually occupied or used and
12 for a city with a population of one million or more inhabitants such
13 setback requirement shall be at least three hundred feet from a dwell-
14 ing, house, farm building, or school building that is actually occupied
15 or used. Such setback requirements may vary based on the capacity of the
16 battery energy storage system and may set a further distance appropriate
17 to ensure the safety of any occupants against fire or other potential
18 reasonable dangers.

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

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

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

9 104.1.2 Review of design and installation. The commissioner may
10 authorize the Department of Buildings to review construction documents
11 filed with that agency for compliance with the design and installation
12 requirements of this code for stationary energy storage systems, fire
13 apparatus access roads, rooftop access and obstructions, and such other
14 design and installation requirements as the commissioner, in consulta-
15 tion with the Commissioner of Buildings, may determine facilitates the
16 design and construction process. The commissioner shall require the
17 establishment of minimum setback requirements for commercial energy
18 storage systems, with a capacity of three megawatts or greater, of no
19 less than three hundred feet from residential property. The manner and
20 scope of such review and the standards to be applied thereto shall be
21 established by the commissioner in consultation with the Commissioner of
22 Buildings, consistent with FC104.2.1.

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

26 104.2 Applications and approvals. The department shall receive, review
27 and, if satisfactory, approve, applications for permits, certificates
28 and other approvals, and design and installation documents required to
29 be submitted to the department by this code or the construction codes,
30 issue permits, inspect buildings, structures, facilities, premises,
31 marine vessels, watercraft and motor vehicles for the purpose of enforc-
32 ing compliance with the requirements of this code, and otherwise admin-
33 ister, implement and enforce the provisions of this code. When review-
34 ing applications for commercial energy storage systems, with a capacity
35 of three megawatts or greater, the department shall ensure that prior to
36 the approval of any application for any applicable permit, request for
37 tax exemption, or commencement of any other regulatory approval process,
38 at least one public hearing has been held in the community district in
39 which such storage is proposed to be sited.

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

42 § 263. Purposes in view. 1. Such regulations shall be made in accord-
43 ance with a comprehensive plan and designed to lessen congestion in the
44 streets; to secure safety from fire, flood, panic and other dangers; to
45 promote health and general welfare; to provide adequate light and air;
46 to prevent the overcrowding of land; to avoid undue concentration of
47 population; to make provision for, so far as conditions may permit, the
48 accommodation of solar thermal, photovoltaics, wind, hydroelectric,
49 geothermal electric, geothermal ground source heat, tidal energy, wave
50 energy, ocean thermal, farm waste electric generating equipment as
51 defined in paragraph (e) of subdivision one of section sixty-six-j of
52 the public service law, ~~and~~ fuel cells, and battery energy storage
53 systems as defined in section seventy-four-c of the public service law;
54 to facilitate the practice of forestry; to facilitate the adequate
55 provision of transportation, water, sewerage, schools, parks and other
56 public requirements. Such regulations shall be made with reasonable

1 consideration, among other things, as to the character of the district
2 and its peculiar suitability for particular uses, and with a view to
3 conserving the value of buildings and encouraging the most appropriate
4 use of land throughout such municipality.

5 2. Regulations related to battery energy storage systems as defined in
6 section seventy-four-c of the public service law may include, but shall
7 not be limited to, minimum setback requirements from residential proper-
8 ty pursuant to section seventy-four-c of the public service law.

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

11 § 7-704 Purposes in view. 1. Such regulations shall be made in accord-
12 ance with a comprehensive plan and designed to lessen congestion in the
13 streets; to secure safety from fire, panic, floods and other dangers; to
14 promote health and the general welfare; to provide adequate light and
15 air; to prevent the overcrowding of land; to avoid undue concentration
16 of population; to make provision for, so far as conditions may permit,
17 the accommodation of solar thermal, photovoltaics, wind, hydroelectric,
18 geothermal electric, geothermal ground source heat, tidal energy, wave
19 energy, ocean thermal, farm waste electric generating equipment as
20 defined in paragraph (e) of subdivision one of section sixty-six-j of
21 the public service law ~~[and]~~, fuel cells, and battery energy storage
22 systems as defined in section seventy-four-c of the public service law;
23 to facilitate the adequate provision of transportation, water, sewerage,
24 schools, parks and other public requirements. Such regulations shall be
25 made with reasonable consideration, among other things, as to the char-
26 acter of the district and its peculiar suitability for particular uses,
27 and with a view to conserving the value of buildings and encouraging the
28 most appropriate use of land throughout such municipality.

29 2. Regulations related to battery energy storage systems as defined in
30 section seventy-four-c of the public service law may include, but not to
31 be limited to, minimum setback requirements from residential property
32 pursuant to section seventy-four-c of the public service law.

33 § 6. Notwithstanding the amendments to section 263 of the town law
34 made by section four of this act and the amendments to section 7-704 of
35 the village law made by section five of this act, nothing in this act
36 shall be construed to require any town or village to amend applicable
37 local building code or zoning regulations.

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