



## New York State Conference of Mayors and Municipal Officials

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### The 2022-23 Executive Budget

#### Testimony of the New York State Conference of Mayors

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Before the  
Joint Fiscal Committees' Hearing on the Executive Budget

Senate Finance Committee  
Hon. Liz Krueger, Chair

Assembly Ways and Means Committee  
Hon. Helene E. Weinstein, Chair

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Via Zoom

Thank you for affording NYCOM the opportunity to express the views of our 580 member cities and villages regarding the 2022-23 Executive Budget. The State Budget, and the State Legislature's contributions to its ultimate form, play an integral role in determining the capacity and ultimate effectiveness of local leaders in providing the services and quality-of-life New Yorkers demand.

In sum, Governor Hochul's Executive Budget is a positive and long overdue development in state-local relations in New York. By proposing increased investments in local road, bridge, water and sewer infrastructure, she is walking the walk of someone who understands that New York cannot succeed without strong local governments. Her respect for municipalities is demonstrated by her proposal to eliminate the state's recent practice of intercepting local sales tax revenue to pay for state aid to localities. And her focus on revitalizing all cities and villages through programs like the Downtown Revitalization Initiative, NY Forward and Restore New York will pay important dividends for our residents and small businesses. However, her budget includes two important errors: one of omission (a failure to include an increase in AIM funding) and one of commission (the inclusion of unprecedented state intervention into local land use decision-making).

#### Increase Municipal Aid to Strengthen Communities

One of the greatest budgetary failures of New York State over the past decade has been the disregard for the fiscal health and quality-of-life within our cities and villages. AIM funding – the state's program of operational aid for municipalities –has not been increased since 2008-09. This neglect from the state government has led to rising municipal tax burdens and a harmful disinvestment in essential services and staff. The weakened condition of our municipal governments is readily apparent by looking at their budgets or driving through their communities.

Over the same period, school aid increased by more than \$6 billion and well-exceeded the rate of inflation. School districts and their taxpayers, who shoulder 2/3rds of New York's property tax burden, are deserving of such financial relief – but so are municipal governments and their taxpayers, who fund municipal services essential to the safety and upbringing of the children of New York. Just as annual increases in

school aid help school districts control school taxes and provide educational essential services, municipal governments need and deserve annual increases in State aid to ensure the quality-of-life of the communities in which our children and grandchildren develop.

The restarting of municipal aid as a state priority is of great concern to cities and villages, large and small. That is why nearly 400 mayors have signed onto a letter NYCOM submitted to Governor Hochul requesting a \$210 million in aid, which would represent a cost-of-living increase in the \$715 million in aid that has not been increased in thirteen years. NYCOM also supports allocating this long overdue increase in a rational, understandable way that reflects need, including population, poverty, level of services provided and degree of tax exempt property. It is also time that the state make a multi-year commitment to its local governments by providing annual municipal aid increases that correspond to a fixed percentage of the increase in school aid.

While an aid increase was not included in the proposed state budget, the Executive – unlike our most recent former Governor – has expressed a willingness to consider one in conjunction with budget negotiations with the Senate and Assembly. The most meaningful way you can demonstrate your commitment to a new state-local partnership and make a difference in every city, village and town in your legislative district is to provide the first increase in municipal aid in 13 years. As many of you are former local officials, you understand the ability of municipalities to maximize the effective use of every dollar in aid they receive. We urge you to not only include a \$210 million municipal aid increase in your one-house budgets, but that you work to ensure that it is included in the adopted state budget.

### State Funding for Municipal Infrastructure

While the primary role of a local government is to provide vital services to its residents, cities and villages, in doing so, must also maintain critical public infrastructure without which transportation, water and sewer systems would not operate safely. NYCOM's members greatly appreciate that the Executive Budget continues the increased levels of aid for roads and bridges that the State Legislature fought so hard to be included in the 2021-22 state budget, including: \$538 million for the CHIPS program,

\$100 million in Extreme Winter Recovery funding, \$100 million for State Touring Routes aid, and \$150 million for PAVE-NY. The Executive Budget also proposes to increase BRIDGE-NY from \$100 million to \$200 million and to create a new \$100 million Pave our Potholes (POP) program. Finally, the Executive Budget would increase the CHIPS competitive bidding threshold from \$350,000 to \$750,000. Given that the repair and maintenance of roads and bridges has suffered at the expense of the many other demands on municipal budgets, these funds will go a long way toward helping local governments maintain aging infrastructure, as well as invest in new development.

In a related State-local transportation program, 37 cities have arterial maintenance agreements with the State. Pursuant to these agreements, the cities maintain certain designated State-owned arterial highways and the State compensates those cities for this service. The reimbursement rate of \$.85 per square yard paid to cities for maintenance of state arterial highways has not been increased since 1987. NYCOM has proposed an inflationary adjustment to \$2.10 per square yard which would provide a much-needed inflationary increase for the 37 cities participating in this state-local shared services program, and would represent an additional State expenditure of approximately \$15.4 million. As we have said many times in the past, if the State had to maintain these highways, the State's fiscal exposure would far exceed the reimbursements that would be paid to cities under this proposal. Now is the time to address this inequitable arrangement.

The Executive Budget also includes an additional \$500 million for drinking water and wastewater infrastructure. While there has clearly been a significant investment of resources by the state since the inception of the Clean Water Infrastructure Act in 2017-18, these resources have been phased in over multiple years and local officials have found that this funding is not readily available for non-emergency upgrades or preventive maintenance. NYCOM supports establishing an annual funding stream that could be used by all cities and villages to supplement their water infrastructure operation and maintenance costs which would help to prevent more significant and costly emergency situations and repairs. This program could be similar to the Consolidated Local State and Highway Improvement Program (CHIPS) where every municipality would receive an allocation based on the amount of pipelines owned and

maintained by the municipality. This would help local governments manage and invest in the replacement and rehabilitation of existing municipally owned and funded drinking water, storm water, and sanitary sewer systems. It would also allow for better planning and coordination with local road reconstruction projects, saving municipalities both time and money.

### Land Use and Code Enforcement Mandates

The Executive Budget includes two land use mandates that violate New York's longstanding tradition of local planning and zoning decisions being determined locally. One proposal would impose a statewide mandate requiring every city, village and town to authorize the creation of at least one Accessory Dwelling Unit (ADU) per residential lot and provide standards for structural requirements for ADUs that do not "unreasonably restrict the creation" of ADUs. Furthermore, the ability for a local government to impose parking requirements for ADUs would be severely restricted by this new State mandate. The other proposal would impose a uniform Transit Oriented Development (TOD) mandate by requiring cities, villages, and towns to permit development of at least 25 dwelling units per acre on any residentially zoned (or un-zoned) land located within one-half mile of rail or bus stations in the metropolitan New York City region. Cities, villages, and towns would not be permitted to enact regulations that "effectively prevent" the development of 25 dwelling units per acre and would be required to amend their comprehensive plans and local land use regulations to conform to this density requirement.

These blunt, one-size-fits-all land use mandates – which are not germane to the State Budget-making process – would be the first of their kind in New York and in direct contravention to the State's long-held approach of locally determined land use planning. Any erosion of home rule zoning powers are likely to result in disjointed development that is out of character with a community's desires, would generate overwhelming local opposition, and would certainly result in legal challenges to ADU and TOD projects. Universal ADU and TOD standards are likely to have significant, costly impacts that would negate the bill's underlying intent to expand housing options. Forcing these standards on already established communities without taking into

consideration the myriad impacts such abrupt and massive changes would have on the municipality is likely to result in incongruous development, not to mention substantially strained municipal services and infrastructure, including streets, sidewalks, and water and sewer systems.

State efforts to foster the use of ADUs and TODs will only be successful if undertaken in conjunction with New York's established home rule laws and local land use planning process. A better approach to foster appropriate and successful implementation of ADU and TOD policies would be for the State to facilitate informed local decision-making, including the drafting of model local laws/regulations, analysis of the impacts of adopting such policies, training for local land use officials, and State funding to implement such development. The ADU and TOD proposals advanced in the Governor's Executive Budget fail to do any of this and, instead, impose a top-down mandate that ignores New York's sacrosanct tradition of community-based land use decisions.

NYCOM also opposes a budget proposal that would empower counties to petition the New York Secretary of State for an order authorizing the county to investigate local city, village, and town enforcement and administration of the New York State Uniform Fire Prevention and Building Code (the Uniform Code). The purpose of such investigations would be to determine whether such local government was complying with the minimum standards that the State has established for administering and enforcing the Uniform Code.

The vast majority of Uniform Code enforcement and administration undertaken in New York is performed by the State's cities, villages, and towns, which have much more experience with administering and enforcing the Uniform Code on a day-to-day basis than the State's counties do. Cities, villages, and towns issue substantially more permits, conduct exponentially more inspections, and undertake the vast majority of Uniform Code enforcement actions as compared to New York's counties. Consequently, this law would put supervisory authority in the hands of a government entity that is less experienced as a general rule than the local governments it would be reviewing and investigating.

This proposal also fails to clearly establish the standards for triggering review and oversight and fails to identify a procedure for the affected local governments to defend their actions or to challenge any of the State's findings or orders. Lastly, this proposal would require local governments that have been stripped of their power to enforce and administer the Uniform Code to reimburse the designated entity for the costs and expenses of performing the code enforcement duties. Such an arrangement would be undemocratic and unfair to the taxpayers of the affected municipalities as there would be no check or balance on the designee's expenses.

### Economic Revitalization

NYCOM is very pleased by the Governor's focus on downtown and community revitalization and the recognition that local governments play a central role in the economic vitality of our state. The Executive Budget includes \$100 million for another round of the Downtown Revitalization Initiative where 10 communities would each receive \$10 million. In addition, the Executive Budget includes \$100 million for a new NY Forward program to help revitalize smaller, more rural downtowns. Continuing the DRI program and adding to it a small downtown-specific program are very positive developments in the state-local economic development partnership. To further improve that partnership, NYCOM recommends that the Legislature work with the Executive to determine ways in which state funds can get to DRI winners in a more expedited fashion.

As NYCOM requested, the Executive Budget would restart the Restore New York program which would help combat blight by supporting municipal efforts to address vacant and abandoned properties, especially in disadvantaged communities and rural areas. Given that this program was last funded in 2017-18, we appreciate that the Governor recognized its successful track record and funds it at \$250 million over three years (\$100 million in SFY 2022-23). By restoring Restore NY, the Governor acknowledges the importance of giving local officials the resources to address the long-standing and far-reaching issue of vacant and abandoned properties. We hope the State Legislature will do the same.

## Public Safety

Every single New Yorker recognizes the danger of increased violent crime, including the ease by which criminals are able to secure and use guns to menace our communities. NYCOM supports the Governor's proposal to establish an Office for Gun Violence Protection, as well as a variety of proposals to address gun violence, including among others: \$18.2 million for the Gun Involved Violence Elimination (GIVE) initiative; \$13.1 million to expand the use of Community Stabilization Units that partner State Troopers with local law enforcement agencies; \$25 million for community-based gun violence response programs (SNUG); \$24.9 million for the Securing Communities Against Hate Crimes (SCAHC) program; \$10 million in new funding for pretrial services to help divert people from unnecessary detention while also keeping communities safe; and \$50 million in new grant funding for capital investments in those communities most impacted by gun violence, along with \$20 million in new funding for crime reduction programming in those same communities.

The first and foremost job of state and local elected officials is to ensure the health, safety and welfare of all New Yorkers. In doing so, state and local leaders must be willing to regularly revisit and evaluate laws put in place to fulfill that mission. As you know, New York enacted comprehensive changes to its bail system in 2019 and some have contended that the amendments have contributed to the drastic rise in violent crime over the past two years. In this regard, NYCOM supports a thorough and factual analysis of pertinent data to determine whether and to what degree New York's modified bail laws are having an impact on violent crime in our state. If the analysis finds a correlation, NYCOM believes bail laws should be carefully amended to clearly allow New York's criminal courts to consider the danger that defendants pose to the public when weighing the option of setting bail, while also ensuring that setting bail isn't just a mechanism to keep financially challenged defendants in jail. In making such a determination, judges should be required to take into account prior record, the strength of the case, and the nature of the current offense, as well as disclose their justification for establishing bail.



## Local Ethics

The Executive Budget would amend Article 18 of the General Municipal Law in an attempt to make its provisions consistent with state ethics laws applicable to state officials. The amendment would prohibit a municipal official/employee from directly or indirectly soliciting any gift, or accept or receive any gift having, having “more than nominal value.” The current monetary limit for local officials is stated clearly in law as \$75. While the Governor’s proposal mirrors the standard currently in place for State employees under the Public Officers Law, local governments do not have the ethics interpretation and enforcement infrastructure in place to deal with such a vague standard as “nominal value.” Under the proposal, there would be no statewide agency to provide guidance to local government officials who will be attempting to navigate the “nominal” gift standard, including establishing the definition of nominal and determining fact-specific exceptions to the rule as are currently issued for state officials via JCOPE or a state agency ethics officers.

NYCOM believes that, while well-intentioned, by merely adopting a “nominal” gift standard without more comprehensively addressing related provisions of Article 18, municipal ethics would be weakened by incorporating a subjective standard that leads to ambiguity and confusion at the local level. In the alternative, NYCOM supports a more thoughtful review and comprehensive reform of Article 18 in order to create a local ethics framework that is clear, understandable and effective.

## Conclusion

Cities and villages are doing all that they can to control spending while maintaining essential services, but the fiscal path they are on – with insufficient State support – is unsustainable. The tax cap has been well-below 2% almost since its inception, State aid has declined in real dollars, and mandate relief has been largely illusive. New York’s local governments need the funding, the tools and a genuine commitment from the State to help break down the barriers to efficiency and community revitalization. We urge you to be partners in reversing these trends and making our cities and villages and State strong again. NYCOM stands ready to assist you in that critically important effort.