S T A T E O F N E W Y O R K

4820

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. AUBERTINE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to the use of zoning overlay districts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general municipal law is amended by adding a new article 5-L to read as follows:

ARTICLE 5-L

USE OF ZONING OVERLAY DISTRICTS

SECTION 119-EE. USE OF ZONING OVERLAY DISTRICTS.

S 119-EE. USE OF ZONING OVERLAY DISTRICTS. 1. ZONING OVERLAY DISTRICTS MAY ONLY BE UTILIZED WHEN

A. PRIOR TO THE CREATION OF THE OVERLAY DISTRICT, THERE EXISTS A WRITTEN, LEGALLY ADOPTED, INTERMUNICIPAL AGREEMENT BETWEEN OR AMONG ALL MUNICIPALITIES THAT WILL BE COVERED BY THE OVERLAY DISTRICT; OR

B. AFTER A MUNICIPALITY HAS EXHAUSTED ALL OTHER METHODS.

2. A MUNICIPALITY MAY NOT CREATE A ZONING OVERLAY DISTRICT OR ENTER INTO AN INTERMUNICIPAL AGREEMENT FOR THE CREATION OF A ZONING OVERLAY DISTRICT UNLESS THE MUNICIPALITY HAS FIRST COMPLETED AND ADOPTED A COMPREHENSIVE PLAN.

3. WHEN CREATING A ZONING OVERLAY DISTRICT, THE MUNICIPALITIES INVOLVED MUST CLEARLY DEFINE WHAT COMMUNITY RESOURCE IS TO BE PROTECTED, ENHANCED, OR DEVELOPED. THE MUNICIPALITIES MUST ALSO SHOW THAT THEY HAVE A COMPELLING GOAL IN THE PUBLIC INTEREST THAT CANNOT BE ACHIEVED USING METHODS OTHER THAN AN OVERLAY DISTRICT.

4. IF A ZONING OVERLAY DISTRICT IS USED, THE OVERLAY DISTRICT MUST PRESERVE THE INTEGRITY OF THE UNDERLYING OR PRIMARY ZONING, IT MUST BE CONSISTENT WITH THE UNDERLYING OR PRIMARY ZONING, AND MAY NOT, IN ANY WAY, INCREASE THE PERMITTED USES OF THE UNDERLYING OR PRIMARY ZONING (ALSO KNOWN AS UP-ZONE).

5. THE PROVISIONS OF THIS SECTION SHALL APPLY TO ALL MUNICIPALITIES.

S 2. This act shall take effect immediately.

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

LBD02475-01-9