STATE OF NEW YORK

5811

2019-2020 Regular Sessions

IN ASSEMBLY

February 19, 2019

Introduced by M. of A. ENGLEBRIGHT, RIVERA, ABBATE, COLTON -- read once and referred to the Committee on Local Governments

AN ACT to amend the general city law, the town law, the village law and the real property tax law, in relation to age integrated communities

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

Section 1. Legislative finding. The legislature finds that in many areas of the state there is inadequate availability of affordable senior citizen housing and/or housing integrated in communities with services for seniors including transportation, shopping, community facilities and residential neighborhoods. The housing inadequacy will get worse because the number of New York citizens over 65 years of age will increase 40 per centum over the 30 years between 1995 and 2025. As a result, the legislature finds that a senior citizen housing crisis exists.

Therefore, the legislature hereby finds and declares that it is necessary for cities, towns and villages to foster housing opportunities for seniors through zoning and planning actions. This may include, but not be limited to, allowing mixed-use development with senior dwelling units compatibly integrated and facilitating new mixed-use development including planned unit developments within use and area requirements.

§ 2. Subdivision 3 of section 28-a of the general city law is amended by adding a new paragraph (d) to read as follows:

(d) "mixed-use age-integrated housing" shall mean the development or redevelopment of single sites to combine residential units, commercial space and/or services for a multi-age population. Provided, however, at least thirty per centum of the total number of residential units shall be for individuals who are sixty years of age or over and at least ten per centum of the total number of residential units shall be affordable to individuals at sixty per centum or less of the area median income.

§ 3. Paragraph (h) of subdivision 4 of section 28-a of the general city law, as amended by chapter 418 of the laws of 1995, is amended to read as follows:

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

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(h) Existing housing resources and future housing needs, including, but not limited to, affordable housing and housing for senior citizens consistent with the goal of mixed-use age-integrated housing.

§ 4. Section 28-a of the general city law is amended by adding a new subdivision 14 to read as follows:

14. Mixed-use age-integrated housing incentive fund. In cases where the city is approving a subdivision plat or site plan for five or more residential units or a mixed-use development that incorporates five or more residential units, the city may establish a program to provide developers with incentives to develop mixed-use age-integrated housing. Such program may include the following incentives, in addition to any other incentives already provided in law. In exchange for a density increase of at least ten per centum over the otherwise allowable density ratio under the applicable zoning ordinance and comprehensive plan as of the date of application by the developer, the city may require the developer to provide the following:

(a) The set aside of at least ten per centum of the residential units requested in the subdivision plat or site plan for mixed-use age-integrated housing, or

(b) Upon a finding by the city that the set aside of mixed-use age-integrated housing units would have a specific adverse impact upon health, safety or the environment for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, the city may require the developer to pay a reasonable fee that shall constitute a trust fund to be used exclusively by the city for providing mixed-use age-integrated services such as, but not limited to, senior transportation, home health care, home delivered meals, or respite care. All fees collected by the city as provided in this section shall be kept in trust separate and apart from all other moneys. Moneys in such trust fund shall be deposited and secured in the manner provided by section ten of the general municipal law. Pending expenditures from such trust fund, moneys therein may be invested in the manner provided in section eleven of the general municipal law. Any interest or capital gain realized on the moneys so deposited or invested shall accrue to and become part of such trust fund.

Prior to offering the incentives indicated in this subdivision, the city shall adopt a local law specifying how they will implement this incentive program, including provisions for how the density increase and other incentives will be implemented.

§ 5. Paragraph (b) of subdivision 1 of section 81-d of the general city law, as added by chapter 247 of the laws of 1992, such section as renumbered by chapter 208 of the laws of 1993, is amended and a new paragraph (d) is added to read as follows:

(b) "Community benefits or amenities" shall mean open space, housing for persons of low or moderate income, housing for persons age sixty or older, parks, elder care, day care including adult day care, or other specific physical, social, or cultural amenities, or cash in lieu thereof, of benefit to the residents of the community authorized by the legislative body of a city.

(d) "Mixed-use age-integrated housing" shall mean the development or redevelopment of single sites to combine residential units, commercial space and/or services for a multi-age population. Provided, however, at least thirty per centum of the total number of residential units shall be for individuals who are sixty years of age or over and at least ten per centum of the total number of residential units shall be affordable to individuals at sixty per centum or less of the area median income.

§ 6. Section 81-f of the general city law, as added by chapter 213 of the laws of 2003, is amended to read as follows:

§ 81-f. Planned unit development zoning districts. A city legislative body, except in a city having a population of more than one million persons, is hereby authorized to enact, as part of its zoning local law or ordinance, procedures and requirements for the establishment and mapping of planned unit development zoning districts. Planned unit development district regulations are intended to provide for residential, commercial, industrial or other land uses, **mixed-use age-integrated housing as defined in section eighty-one-d of this article** or a mix thereof, in which economies of scale, creative architectural or planning concepts and open space preservation may be achieved by a developer in furtherance of the city comprehensive plan and zoning local law or ordinance.

§ 7. Paragraph (b) of subdivision 1 of section 261-b of the town law, as added by chapter 629 of the laws of 1991, is amended and a new paragraph (d) is added to read as follows:

(b) "Community benefits or amenities" shall mean open space, housing for persons of low or moderate income, **housing for persons age sixty or older,** parks, elder care, day care **including adult day care** or other specific physical, social or cultural amenities, or cash in lieu thereof, of benefit to the residents of the community authorized by the town board.

(d) "Mixed-use age-integrated housing" shall mean the development or redevelopment of single sites to combine residential units, commercial space and/or services for a multi-age population. Provided, however, at least thirty per centum of the total number of residential units shall be for individuals who are sixty years of age or over and at least ten per centum of the total number of residential units shall be affordable to individuals at sixty per centum or less of the area median income.

§ 8. Section 261-c of the town law, as added by chapter 213 of the laws of 2003, is amended to read as follows:

§ 261-c. Planned unit development zoning districts. A town legislative body is hereby authorized to enact, as part of its zoning local law or ordinance, procedures and requirements for the establishment and mapping of planned unit development zoning districts. Planned unit development district regulations are intended to provide for residential, commercial, industrial or other land uses, **mixed-use age-integrated housing as defined in section two hundred sixty-one-b of this article** or a mix thereof, in which economies of scale, creative architectural or planning concepts and open space preservation may be achieved by a developer in furtherance of the town comprehensive plan and zoning local law or ordinance.

§ 9. Subdivision 2 of section 272-a of the town law is amended by adding a new paragraph (d) to read as follows:

(d) "mixed-use age-integrated housing" shall mean the development or redevelopment of single sites to combine residential units, commercial space and/or services for a multi-age population. Provided, however, at least thirty per centum of the total number of residential units shall be for individuals who are sixty years of age or over and at least ten per centum of the total number of residential units shall be affordable to individuals at sixty per centum or less of the area median income.

§ 10. Paragraph (h) of subdivision 3 of section 272-a of the town law, as amended by chapter 418 of the laws of 1995, is amended to read as follows:

(h) Existing housing resources and future housing needs, including, but not limited to, affordable housing and housing for senior citizens consistent with the goal of mixed-use age-integrated housing.

§ 11. Section 272-a of the town law is amended by adding a new subdivision 13 to read as follows:

13. Mixed-use age-integrated housing incentive fund. In cases where the town is approving a subdivision plat or site plan for five or more residential units or a mixed-use development that incorporates five or more residential units, the town may establish a program to provide developers with incentives to develop mixed-use age-integrated housing. Such program may include the following incentives, in addition to any other incentives already provided in law. In exchange for a density increase of at least ten per centum over the otherwise allowable density ratio under the applicable zoning ordinance and comprehensive plan as of the date of application by the developer, the town may require the developer to provide the following:

(a) The set aside of at least ten per centum of the residential units requested in the subdivision plat or site plan for mixed-use age-integrated housing, or

(b) Upon a finding by the town that the set aside of mixed-use age-integrated housing units would have a specific adverse impact upon health, safety or the environment for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, the town may require the developer to pay a reasonable fee that shall constitute a trust fund to be used exclusively by the town for providing mixed-use age-integrated services such as, but not limited to, senior transportation, home health care, home delivered meals, or respite care. All fees collected by the town as provided in this section shall be kept in trust separate and apart from all other moneys. Moneys in such trust fund shall be deposited and secured in the manner provided by section ten of the general municipal law. Pending expenditures from such trust fund, moneys therein may be invested in the manner provided in section eleven of the general municipal law. Any interest or capital gain realized on the moneys so deposited or invested shall accrue to and become part of such trust fund.

Prior to offering the incentives indicated in this subdivision, the town shall adopt a local law specifying how they will implement this incentive program, including provisions for how the density increase and other incentives will be implemented.

§ 12. Paragraph b of subdivision 1 of section 7-703 of the village law, as added by chapter 629 of the laws of 1991, is amended and a new paragraph d is added to read as follows:

b. "Community benefits or amenities" shall mean open space, housing for persons of low or moderate income, housing for persons age sixty or older, parks, elder care, day care including adult day care or other specific physical, social or cultural amenities, or cash in lieu thereof, of benefit to the residents of the community authorized by the village board of trustees.

d. "Mixed-use age-integrated housing" shall mean the development or redevelopment of single sites to combine residential units, commercial space and/or services for a multi-age population. Provided, however, at least thirty per centum of the total number of residential units shall be for individuals who are sixty years of age or over and at least ten per centum of the total number of residential units shall be affordable to individuals at sixty per centum or less of the area median income.

§ 13. Section 7-703-a of the village law, as added by chapter 213 of the laws of 2003, is amended to read as follows:

§ 7-703-a Planned unit development zoning districts. A village legislative body is hereby authorized to enact, as part of its zoning local law, procedures and requirements for the establishment and mapping of planned unit development zoning districts. Planned unit development district regulations are intended to provide for residential, commercial, industrial or other land uses, **mixed-use age-integrated housing as defined in section 7-703 of this article** or a mix thereof, in which economies of scale, creative architectural or planning concepts and open space preservation may be achieved by a developer in furtherance of the village comprehensive plan and zoning local law.

§ 14. Subdivision 2 of section 7-722 of the village law is amended by adding a new paragraph (d) to read as follows:

(d) "mixed-use age-integrated housing" shall mean the development or redevelopment of single sites to combine residential units, commercial space and/or services for a multi-age population. Provided, however, at least thirty per centum of the total number of residential units shall be for individuals who are sixty years of age or over and at least ten per centum of the total number of residential units shall be affordable to individuals at sixty per centum or less of the area median income.

§ 15. Paragraph (h) of subdivision 3 of section 7-722 of the village law, as amended by chapter 418 of the laws of 1995, is amended to read as follows:

(h) Existing housing resources and future housing needs, including**, but not limited to,** affordable housing **and housing for senior citizens consistent with the goal of mixed-use age-integrated projects within communities**.

§ 16. Section 7-722 of the village law is amended by adding a new subdivision 13 to read as follows:

13. Mixed-use age-integrated housing incentive fund. In cases where the village is approving a subdivision plat or site plan for five or more residential units or a mixed-use development that incorporates five or more residential units, the village may establish a program to provide developers with incentives to develop mixed-use age-integrated housing. Such program may include the following incentives, in addition to any other incentives already provided in law. In exchange for a density increase of at least ten per centum over the otherwise allowable density ratio under the applicable zoning ordinance and comprehensive plan as of the date of application by the developer, the village may require the developer to provide the following:

(a) The set aside of at least ten per centum of the residential units requested in the subdivision plat or site plan for mixed-use age-integrated housing, or

(b) Upon a finding by the village that the set aside of mixed-use age-integrated housing units would have a specific adverse impact upon health, safety or the environment for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, the village may require the developer to pay a reasonable fee that shall constitute a trust fund to be used exclusively by the village for providing mixed-use age-integrated services such as, but not limited to, senior transportation, home health care, home delivered meals, or respite care. All fees collected by the village as provided in this section shall be kept in trust separate and apart from all other moneys. Moneys in such trust fund shall be deposited and secured in the manner provided by section ten of the general municipal law. Pending expendi-

tures from such trust fund, moneys therein may be invested in the manner provided in section eleven of the general municipal law. Any interest or capital gain realized on the moneys so deposited or invested shall accrue to and become part of such trust fund.

Prior to offering the incentives indicated in this subdivision, the village shall adopt a local law specifying how they will implement this incentive program, including provisions for how the density increase and other incentives will be implemented.

§ 17. The real property tax law is amended by adding a new section 421-p to read as follows:

§ 421-p. Mixed-use age-integrated housing exemption. Any county, city, town, village or school district may by local law or in the case of a school district by resolution, other than a school district to which article fifty-two of the education law applies, after a public hearing adopt the provisions of this section providing for an exemption for senior citizen mixed-use age-integrated housing as defined in section two hundred seventy-two-a of the town law.

Such local law, or in the case of a school district, such resolution, may provide for the exemptions application to be limited to a specific geographic area of such county, city, town, village or school district. Such exemptions shall be computed upon the increase in value attributable to the new construction, or in the case of reconstruction, to the increase in value attributable to such reconstruction.

Such mixed-use age-integrated housing exemption shall be pursuant to the following exemption schedule:

Year of exemption	Percentage of exemption
1	50
2	50
3	50
4	40
5	30
6	20
7	10
8	10
9	10
10	5

§ 18. The state office for the aging and the department of state shall:

(a) prepare or cause to be prepared and made available to cities, towns and villages model zoning and planning guidelines that foster age-integrated communities including provisions to allow for accessory senior citizen units in areas zoned for single family residences and for mixed-use development accommodating senior citizen residential housing; and

(b) make recommendations, in consultation with the division of housing and community renewal, to the governor and legislature for assisting mixed-use age-integrated housing development or redevelopment demonstration projects in urban, suburban and rural areas of the state. The director of the state office for the aging and the secretary of state shall establish an advisory committee for purposes of this section. Such committee shall include, but not be limited to, top representatives of local government, senior citizen organizations, developers, senior service providers and planners.

§ 19. This act shall take effect on the one hundred eightieth day after it shall have become a law.