



**Division of Local
Government Services**

Senior Housing Regulations Two Model Laws

A Division of the New York Department of State

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Publication Date: March 2016

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INTRODUCTION

This publication offers local governments two model local laws designed to increase the supply of affordable, high quality housing choices for seniors, individuals with permanent disabilities, and their caregivers. The model laws are illustrative only and should be adapted to meet the unique circumstances of the community.

Aging: New York’s seniors are a diverse population, consisting of a multi-generational group ranging in age from 55 to over 100, with extremely varied traits, characteristics, preferences, and needs. The Livable New York Resource Manual¹ states:

New York has the third largest number of seniors in the United States, and the aging of the Baby Boomers is swelling the ranks of the State’s older population. In 2010, the NY State Office for the Aging projected that the State’s 3.7M residents aged 60+ will increase to 5.3M by 2030. The oldest Boomers turned 64 in 2010, and the youngest Boomers will turn 60 in 2024. There has never been a standard definition of what constitutes “old age”; and the Boomers are re-defining all aspects of aging, what it means to be older, and when someone would consider himself or herself “old”.

Disabilities: In 2010, the U. S. Census Bureau reported that the number of New Yorkers with one or more of five types of disabilities will increase from 3.8M to 4.4M in 2030. Like the rest of the population, individuals with disabilities are living longer and longer lives . . . into advanced old age.

Seniors and individuals with disabilities share a common trait with all New Yorkers: they need suitable housing accommodations in their communities to meet their varying lifestyles and needs. These model Housing regulations provide municipalities with suggestions for addressing, through zoning, special housing needs of seniors, individuals with permanent disabilities, and the caregivers who provide the majority of their care and support.

In 2010, New York State enacted Elder Law § 202(14) (a), which directed the State’s Office for the Aging, the Department of State and others (Affiliate Partners) to prepare and make available to cities, towns and villages model zoning and planning guidelines “that foster age-integrated communities, including provisions to allow for accessory dwelling units in areas zoned for single family residences and for mixed-use development.” The Livable New York Resource Manual was prepared to serve as a resource for municipalities to use to plan for, zone, and foster age-integrated communities. It includes descriptions of numerous housing models that respond to the unique housing challenges, special needs, and habits of New York’s seniors, individuals with disabilities, and caregivers.

These model regulations are intended to provide guidance on zoning and planning for communities to permit seniors, individuals with permanent disabilities, or their caregivers: (1) accessory apartments and cottages in areas zoned for single family residences, and (2) senior housing communities (using a zoning technique called floating zones) to provide residential housing for seniors.

¹ <http://www.aging.ny.gov/livableny/openingpages.pdf>

In New York, the justification for adding Elder Law § 202(14) begins with the recognition that many seniors and individuals with disabilities want the option to stay close to their communities and their families as their needs change, but many have been unable to do so because of a lack of accessible housing options. Often, the homes where these individuals live require reliance on automobiles to access needed businesses and services, or require their caregivers to travel long distances to carry out their caregiving tasks and responsibilities, or require both the caregivers and the people they care for to relinquish their privacy and live together during their adult years.

To address these issues, municipalities can make reasonable changes to their zoning and local land use regulations by permitting, in appropriate locations, floating zones for senior housing close to services, or mixed-use zones that integrate businesses and services that generations of all ages and mobility levels can utilize accessory dwelling unit options.

Each of the following model regulations employs a different land use tool - either “as-of-right” permits or special use permits review for accessory dwelling units for seniors, persons with permanent disabilities, and caregivers, or the floating zone approval process for senior housing districts – that offer municipalities choices that encourage livable housing alternatives for their residents.

These model regulations are provided for informational and illustrative purposes only. However, if a municipality decides to adopt one or both model regulations, we recommend that the proposed regulations be reviewed locally, adapted to meet local needs, and formally adopted through the local law process to become effective, since the power to regulate land through zoning is exercised locally only by the governing board of a city, town or village. Inquiries about these model regulations, other questions about planning for New Yorkers, or questions about the local legislation adoption process generally, may be directed to the Department of State, through its Division of Local Government Services, at 518-473-3355. Please also visit the Department’s website at www.dos.ny.gov to access resources including additional publications, legal memoranda, online interactive courses and online videos on a variety of land use planning and zoning topics.

Model #1

HOUSING - TEMPORARY ACCESSORY DWELLING UNIT

I. OVERVIEW

This model accessory dwelling unit local law provides for construction and temporary occupancy of accessory dwelling units in areas zoned single family and on lots developed or proposed to be developed with single-family dwellings. Such accessory dwelling units are allowed because they can contribute needed housing to the community's housing stock. Accessory dwelling units may take the form of "accessory apartments" or "cottages" that can be integrated into existing single family neighborhoods to provide low priced housing alternatives that have little or no negative impact on the character of the neighborhood.

Importantly, this model law promotes “aging in place,” a term that refers to making changes in the home to allow seniors and persons with permanent disabilities to live at home for as long as possible. Helping people live at home while aging can reduce the financial burdens of these individuals while permitting them to live in supportive surroundings in close proximity to caregivers who provide their needed support and care.

The regulatory approach used in this model law is a zoning law that permits an accessory dwelling unit, thereby allowing certain improvements to be made to the existing dwelling. The model regulations authorize both “as-of-right” accessory apartments within the interior of a dwelling, as well as those units with more visible changes to the outside of the building (such as additions to the building or cottages) requiring a special use permit.

The permit review process enables the municipality to make sure that the accessory dwelling unit is used only for seniors, individuals with a permanent disability, or their caregiver. The permits are temporary in the sense that where a senior or caregiver no longer occupies the accessory dwelling unit, or any exceptions granted for an eligible occupant's extended, but not permanent, stay in a hospital, rehabilitation facility, or nursing home, is withdrawn, the permit or special use permit would expire and the unit would no longer be legally available for occupancy without issuance of a new permit. In other words, the special use permit is valid only for the period of time the accessory dwelling unit is occupied by the senior, a person with a permanent disability, or caregiver. Any lapse in occupancy for a period greater than 60 days, or whatever period is set forth in the local law, will result in expiration of the permit. A good record-keeping system that allows a municipality to monitor compliance with the law is essential.

II. TEXT

Enacting Clause

Be it enacted by the [Town Board/ Village Board of Trustees /City or Common Council] of the [Town/Village/City] of _____ as follows:

Section 1: Title

A local law authorizing the establishment of Temporary Accessory Dwelling Unit for seniors, persons with permanent disabilities, or their caregivers residing in the [Town/Village/City] of _____.

Section 2: Enabling Clause

This local law is adopted in accordance with the authority of the Municipal Home Rule Law § 10 and is consistent with the directives and policies outlined in New York State Elder Law § 202(14).

Section 3: Purpose and Findings

The purpose of this local law is to:

- Provide a means for seniors and persons with permanent disabilities to remain in their homes and neighborhoods, and obtain extra income, security, companionship, care, and services;
- Increase the housing stock of existing neighborhoods while respecting the look and scale of single-dwelling development;

- Allow more efficient use of existing housing stock and infrastructure;
- Provide a mix of housing that responds to changing family needs and smaller households; and
- Provide a broader array of accessible and more affordable housing.

A. The [Town Board/ Village Board of Trustees /City or Common Council] of the [Town/Village/City] of _____ has determined that:

1. Within the [Town/Village/City] of _____, there is a need for affordable accessory dwelling units that are specifically designed and built for seniors, persons with permanent disabilities, and their caregivers and which include features such as easy adaptation to handicapped accessibility, and safe entrance and exit features.
2. Housing for seniors, persons with permanent disabilities, and their caregivers properly located near needed facilities, services and support networks, can contribute to the independence of these individuals and is beneficial to the general welfare and health of the community.
3. Providing a range of housing choices can enable individuals of various abilities and income levels “to age in place” without leaving established networks of nearby family and friends.
4. Accessory dwelling units can allow individuals who are no longer able to maintain a home to be able to continue to live independently in one unit with the support and security offered by family or a caregiver living in the other unit.
5. Accessory dwelling units for seniors, persons with permanent disabilities, and caregivers can increase the supply of affordable units in a community without significantly altering the character of a neighborhood or requiring new infrastructure.

B. This local law implements the policies, goals and principles for the development of additional housing and support options as outlined in the [Town/Village/City] of _____ Comprehensive Plan.

C. This local law is also adopted to implement the directives and policies set forth in the New York State Elder Law § 202(14), to foster age-integrated communities by providing a means through which accessory dwelling units for seniors and persons with permanent disabilities may be developed in areas adequately suited for their needs.

Section 4: Definitions

ACCESSORY DWELLING UNIT - A self-contained apartment, auxiliary to and smaller in size than the primary dwelling, that is constructed within the interior or attached to a primary dwelling, or maintained on an owner occupied lot in a separate detached structure on the same lot as the primary dwelling. Accessory dwelling units generally include living, sleeping, kitchen and bathroom facilities and have a lockable entrance door. The two types of accessory dwelling units permitted under this law are the accessory apartment and the cottage.

AUTHORIZED BOARD - The board, designated by the governing board of the municipality, to conduct the review of the special use permit application. The governing board may designate either the planning board, the zoning board of appeals, or some other administrative board to perform this function.

APPLICANT - Any person applying for an “as-of-right” permit or a special use permit for an accessory dwelling unit.

BASEMENT APARTMENT - That portion of a primary dwelling that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade adjoining the primary dwelling.

CAREGIVER - A person who actively provides necessary care to a senior occupant who is temporarily or permanently unable to perform personal or household care necessary for everyday survival, or a person who actively provides necessary care to a person with a permanent disability who is permanently unable to perform personal or household care necessary for everyday survival. Care includes, but is not limited to assisting with personal and instrumental daily activities, companionship, administering medication or other health care, providing therapy, and tending to the needs of the individual.

COTTAGE - A small, self-contained dwelling unit for one or more persons designed for temporary installation on the same property as a primary dwelling and containing provisions for living, sleeping, kitchen and sanitary facilities for the exclusive use of the occupants. Cottages must be designed to be removed upon termination of occupancy by the senior, person with a permanent disability, or the caregiver.

ENFORCEMENT OFFICER - The enforcement official charged with ensuring that buildings and land in a municipality are in accordance with the zoning regulations. For purposes of enforcing this law, the enforcement officer is authorized to issue notices of violation, stop work orders, and other similar enforcement notices.

GARAGE APARTMENT - An accessory apartment located above a garage or in a converted garage. The garage may be attached to or detached from the primary residence.

KITCHEN - An area within an accessory dwelling unit with a sink and facilities for food preparation and cooking and equipped with appropriate kitchen electric outlet receptacles.

OUTSIDE STAIRCASE - A flight of stairs no wider than four (4) feet with handrails attached to the exterior walls of the primary dwelling and giving access to the second or higher floors of the primary dwelling.

PRIMARY DWELLING - A residential dwelling unit designed to be used as a home by the owner of such building.

SENIOR - An individual who is at least _____ [55; 60; 62; 65] years of age or older.

PERSON WITH A PERMANENT DISABILITY - An individual aged 18 or older who, because of a long-term (expected to last longer than six months) mental or physical condition, has limited ability to perform major life activities without mechanical or personal assistance, or who cannot independently perform activities of daily living or instrumental activities of daily living without the assistance of another person(s).

Section 5: Locations Permitted

- A. An **accessory dwelling unit** (both accessory apartments and cottages) may be permitted in any residential zone designed primarily to permit single-family dwellings on individual lots.
- B. An **accessory apartment** may be developed within an existing dwelling, as an add-on to an existing dwelling or a combination of these.
- C. A **cottage** may be located in this same zone on a lot with a minimum lot size of _____ [10,000] square feet.

Section 6: General Application and Permitting Requirements

A. Application Procedures

- 1. Applications for accessory apartments to be located within a primary dwelling are reviewable by the enforcement officer “as-of-right” and may be permitted provided all requirements in this section are met. This approach facilitates the development of accessory apartments that have limited or no impact from the street or adjoining properties.
- 2. For accessory dwelling units attached to the exterior of the primary dwelling and for cottages, the special use permit device shall be used to establish a heightened level of control, especially on issues of design compatibility and privacy. The [name of authorized board] of the [Town/Village/City] of _____ shall be responsible for reviewing and deciding applications for special use permits for these two types of accessory dwelling units.
- 3. Application fee of _____. An application shall be accompanied by an administrative fee as set by the [Town Board/Village Board of Trustees/City or Common Council].
- 4. Review and decision of applications for accessory apartments by the enforcement officer shall occur within 62 days of submission. Review and decision of applications for accessory dwelling units requiring a special use permit by the [name of authorized board] of the [Town/Village/City] of _____ shall be issued within sixty-two (62) days following close of a public hearing to be held with at least five (5) days advance notice detailing the time and place where the hearing on such application will occur.
- 5. A list of application requirements are listed in Appendix A.

B. Permit and Permit Renewal

1. A permit or a special use permit to construct and maintain an accessory dwelling unit shall be effective for 2 years, except that the first time a permit or special use permit is issued, it shall be valid only until December 31st of the second year of issuance. A permit or a special use permit may be renewed.
2. Certificate of Occupancy
 - a. Before any certificate of occupancy for a newly constructed or renovated accessory dwelling unit may be issued, the enforcement officer shall conduct a physical inspection of the accessory dwelling unit, including any exterior entrances, to determine that the accessory dwelling unit complies with the requirements of this law.
 - b. The enforcement officer is authorized to withhold the certificate of occupancy for any accessory dwelling unit that is being maintained in violation of this law.
3. Affidavit of continued compliance.
 - a. By the first of January of each year following the issuance of a certificate of occupancy for an accessory dwelling unit, the owner of the property shall file in the office of the enforcement officer a sworn affidavit in the form prescribed by the such officer, which shall state that there has been no change in the conditions upon which the certificate was originally granted.
 - b. If such owner shall fail to file the sworn affidavit as herein required, the permit or special use permit issued for the accessory dwelling unit shall be revoked following 10 days advance written notice, and the enforcement officer shall notify the owner, in writing, of such revocation.
 - c. Any continued occupancy of such accessory dwelling unit following notice of revocation shall constitute a violation of this law.
4. On or before December 31st at the end of the two-year permit period, the owner may apply to renew the permit for an additional 2 year period. Renewal applications must use the current application form for the accessory dwelling unit and be submitted in a timely manner to the enforcement official or the authorized board.
5. An inspection of the subject premises may be requested by the enforcement officer if there has been a material change in circumstances since the previous issuance of the permit.

Section 7: Requirements Applicable to All Accessory Apartments

- A. An accessory dwelling unit may only be created through the following methods:
 1. Converting interior living area, attic, or basement within the primary dwelling, or in an attached or detached garage;
 2. Adding floor area to a primary dwelling; or
 3. Constructing a temporary cottage as an accessory dwelling unit.

- B. An accessory dwelling unit that conforms to the requirements of this local law shall not be considered as exceeding the allowable density for the lot upon which it is located, and shall be deemed to be a residential use which is consistent with the comprehensive plan and the zoning designations.
- C. Either the accessory dwelling unit or the primary dwelling shall constitute the permanent residence of the person or persons who own the lot on which the primary dwelling is situated.
- D. No more than one accessory dwelling unit is permitted on any lot or parcel of land.
- E. Total building coverage for the primary dwelling and accessory dwelling unit shall not exceed the allowable lot coverage.
- F. An accessory dwelling unit shall only be permissible when the primary dwelling and accessory dwelling unit can meet all site requirements including setbacks, height limits, storm water management, and parking requirements.
- G. The accessory dwelling unit shall be a complete housekeeping unit that is separate from the primary dwelling. An accessory dwelling unit must include no more than two bedrooms.
- H. The parking areas on-site shall be adequate. In addition to the off-street parking required for the primary dwelling, there shall also be provided on the same lot one additional parking space for the accessory dwelling unit, if needed. Where on-street parking is established for the neighborhood, on-street parking may be counted to meet this requirement. No parking shall be located within or on a front or side yard setback.
- I. An accessory dwelling unit may not be separately sold from the primary dwelling on the same lot or parcel of land, and may only be used as a dwelling unit for seniors or persons with a permanent disability, or for the caregiver of those individuals if those individuals live in the primary residence.
- J. Home occupations cannot operate within an accessory dwelling unit.
- K. The accessory dwelling unit must meet the minimum requirements of the Uniform Fire Prevention and Building Code.
- L. Safety and usability are key considerations for housing for seniors and individuals with permanent disabilities. Construction should include accessibility features or adaptable features for easy future incorporation of accessibility features. Universal design standards are encouraged to promote safe, accessible habitations where occupants can live independently and comfortably. Design and construction requirements shall, whenever feasible, include the following:
 - 1. One no-step entrance on an accessible path;
 - 2. Doorways on the main level, with at least a 32-inch clear opening;

3. Lever-type door handles;
4. Electric outlets located a minimum of 24 inches above the floor;
5. Luminous light switches in bedrooms, bathrooms, and corridors;
6. A bathroom on the main level of each unit with enough space to accommodate a wheelchair. All bathrooms shall:
 - a. have direct access to bedrooms and direct or indirect access between the bathroom and living room;
 - b. have doors that open out;
 - c. have thresholds that are flush with the floor;
 - d. have a toilet, sink and a bathtub or stall shower with a built-in bench or room for a bath stool;
 - e. provide backing for full grab-bar installation;
 - f. have one-handed control of water taps;
 - g. have showers, bathtubs and water taps that are equipped with anti-scald mechanisms; and
 - h. avoid sharp surfaces and slippery floor surfaces.

M. All requirements of the New York State Department of Health pertaining to water supply and sewage disposal systems shall be satisfied prior to occupancy of the accessory dwelling unit.

Section 8: Requirements Applicable to “As-of-Right” Permits for Accessory Apartments

- A. Standards for an accessory apartment located within the interior of a primary dwelling
1. An accessory apartment shall be limited to a maximum of _____ [thirty (30) percent] of the total livable floor area of the primary dwelling.
 2. The accessory apartment shall have a minimum floor area of ____ [300; 350; 400] square feet and a maximum floor area of ____ [700; 800; 900; 1000] square feet.
 3. An accessory apartment shall not be permitted within a primary dwelling that is itself substandard in size or located on a substandard sized lot. The primary dwelling must comply with all zoning requirements for a single-family dwelling.
 4. The pedestrian entrance to the accessory apartment shall be located to the side or rear of the primary dwelling, to the extent practicable.
 5. There shall be no additional signage to identify the accessory apartment, other than the signage permissible for the primary dwelling.
 6. There shall be no additional exterior utility equipment, or other evidence of an accessory apartment unit. An accessory apartment shall not have separate metered utility service.
- B. Standards for an accessory apartment located within a garage structure (attached or detached)
1. The accessory apartment may be located on the ground floor or a second floor above the garage and shall be an integral part of the garage structure.
 2. An accessory apartment shall not be permissible within a nonconforming garage structure.
 3. The garage together with the accessory apartment shall comply with all site development standards pertaining to the zoning district.
 4. An accessory apartment located within a garage shall not exceed _____ [600; 700] square feet.
 5. Garage walls and ceilings where the accessory apartment is constructed must be properly insulated and the living space must have adequate heating.

6. If the accessory apartment prevents use of the garage for parking, an onsite parking space may be located in tandem with an onsite parking space for the single-family residence only if either space may be accessed from the driveway without moving an automobile parked in the other space. No parking shall be located within or on a front or side yard setback.
7. The existence of an accessory apartment in a garage shall not be construed to allow additional accessory dwelling units on a single-family parcel beyond the number and type of accessory structures permissible with the primary dwelling.
8. There shall be no additional signage to identify the accessory apartment, other than the signage permissible for the primary dwelling.
9. There shall be no exterior utility equipment, or outward evidence of an accessory apartment unit.
10. The exterior appearance of a newly-constructed garage together with the accessory apartment shall be consistent and compatible with the primary dwelling, considering architectural style, color, building materials, and roof design.
11. For an accessory apartment located within an existing detached garage, the garage is not required to approximate the exterior features of the existing primary dwelling, but any exterior modification should be consistent with the architectural style of that garage structure.

C. Additional Standards for Basement Apartments

In addition to the compliance with “A. Standards for an accessory apartment located within the primary dwelling”, the following standards apply to basement apartments:

1. Converting basements to accessory apartments is prohibited if the primary dwelling is located within the floodplain.
2. Accessory apartments in basements must have at least one egress window or exterior door for escape or rescue in case of an emergency.
3. Basement walls must be properly insulated and heated. Existing concrete exterior walls must be furred out with framing sufficient to accommodate the required insulation.
4. Basement apartments must be compliant with the Uniform Fire Prevention and Building Code.

Section 9: Special Use Permit Standards for Certain Accessory Dwelling Units

General Standards for Cottages and for Accessory Apartments created by External Expansion of Primary Dwelling

- A. The authorized board is empowered to issue a special use permit for the construction or erection of (a) temporary cottages and (b) accessory apartments requiring external expansion of the primary dwelling, on a parcel zoned for a single-family residence, if the dwelling unit is intended for the occupancy of the older adult, person with a permanent disability, or the caregiver. Each of these two types of accessory dwelling unit is subject to the additional standards set forth below.
- B. Before approving any application for a special use permit, the authorized board shall consider whether:

1. The exterior design, exterior materials, roof form, window types and proportions of the accessory dwelling unit approximate and will be compatible with the primary dwelling on the lot. The single-family character of the primary dwelling shall not be changed.
2. The parking areas on-site are adequate.
3. The location and design of the accessory dwelling unit maintains a compatible relationship to adjacent properties and does not significantly impact the light, air, solar access or parking at adjacent properties.
4. Windows and doors which face an adjoining residential property are oriented, to the maximum extent possible, to protect the privacy of neighbors and where needed, landscape screening and fencing are installed.
5. The accessory dwelling unit is oriented in a manner to maintain natural drainage, significant trees and shrubs, and natural land forms.

C. In order to encourage the development of housing units for individuals with disabilities, the authorized board may waive the stated requirements in order to install features that facilitate accessibility, so long as all zoning requirements are met.

D. Additional Standards for Cottages

In addition to the requirements of Section 9, the following standards apply to cottages:

1. Cottages shall be permitted on a temporary basis and must be removed once the occupant no longer occupies it or the primary dwelling.
2. The lot upon which the primary dwelling and cottage will be situated shall have a minimum area of _____ [10,000] square feet.
3. A cottage shall contain at least _____ [400; 500; 600] square feet but not more than _____ [1000; 1200] square feet of living space.
4. The cottage shall be located only within a side or rear yard.
5. The cottage shall be a single story building that is _____ [fourteen (14) feet] or less in height.
6. The cottage shall be separated a minimum distance of _____ [fifteen (15) feet] from the primary dwelling.
7. Cottages shall meet the minimum property line setbacks and lot coverage requirements for the zoning district in which they are located, unless an area variance has been granted.
8. No material should be used that would hinder easy removal of the cottage when required.

E. Standards for Construction of Floor Area Connected to Exterior of Primary Dwelling

Upon proper application for a special use permit and after a public hearing, an accessory apartment may be constructed to connect to the exterior of the primary dwelling, provided that the following requirements have been met:

1. The lot upon which the primary dwelling and attached accessory apartment will be situated shall maintain a minimum area of _____ [10,000] square feet/acre.
2. Any additions to a primary dwelling for the purpose of constructing an accessory apartment shall not increase the total square footage of the primary dwelling by more than _____ [25%; 30%].
3. No changes shall be made to the exterior of the primary dwelling which would detract from its external appearance as a detached one-family dwelling.

4. The primary dwelling, together with the attached accessory apartment, must be shown to meet the minimum property line setbacks and lot coverage requirements for the zoning district in which they are located, unless an area variance has been granted.
5. A dormer may be constructed provided it does not extend in height beyond the existing roof ridge line and does not extend in depth beyond the first floor exterior wall.
6. In addition to the off-street parking required for the primary dwelling, there shall also be provided on the same lot one additional parking space for the accessory apartment, if needed.
7. The accessory apartment shall not substantially impair the visual quality of the immediate neighborhood of which the dwelling is a part or the surrounding area.

Section 10: Vacancy, Enforcement and Penalties

A. Vacancy

1. Non-Occupancy of Accessory Dwelling Unit

- a. If the accessory dwelling unit or primary dwelling ceases to be occupied by an eligible occupant for a period of more than _____ [60 days], the certificate of occupancy for the accessory dwelling unit shall expire, with exceptions granted for an eligible occupant's extended, but not permanent, stay in a hospital, rehabilitation facility, or nursing home. The owner shall have _____ [6 months] following vacancy to remove all kitchen appliances and devices.
- b. If the accessory dwelling unit ceases to be occupied by an eligible occupant for a period of more than _____ [60 days], the owner of the property must report the vacancy to the enforcement officer within that time.
- c. If during the _____ [60 day] period an eligible occupant begins residing in the accessory dwelling unit, the property owner shall notify the enforcement officer within _____ [30 days] of such change in occupancy.

2. Sale of Property

- a. The right to use an accessory dwelling unit ceases _____ [60 days] after the sale, conveyance or transfer of the property title unless the new owner reapplies to continue the permit. Without a permit, the new owner shall have _____ [6 months] following the sale, conveyance or transfer to remove all kitchen appliances and devices.
- b. Purchasers of properties containing an accessory dwelling unit must reapply to continue the use.

B. Enforcement and Penalties

The following enforcement actions are in addition to those available for violations of the zoning regulations and Uniform Fire Prevention and Building Code.

1. Notice of violation. When the enforcement officer has determined that an accessory dwelling unit is being constructed in violation of this law, the officer may issue a written notice of violation to the landowner by certified mail or in person. Such notice shall direct the immediate discontinuance and abatement of the violation. The notice of violation shall contain:
 - a. The name and address of the property owner;

- b. The address of the building, structure or land upon which the violation is occurring;
 - c. A statement specifying the nature of the violation;
 - d. A description of the remedial measures necessary to bring the accessory dwelling unit into compliance with the law, together with a time schedule for the completion of such remedial action; and
 - e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
2. Any owner who, after receipt of the notice above provided, continues in violation or refuses to comply with any of the provisions of this law may be prosecuted in a criminal action brought by the enforcement officer on behalf of the (Town/Village/City) of _____ and, upon conviction, be fined a sum of \$250 for each offense. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense.
 3. Continued occupancy of the accessory dwelling unit following revocation or expiration of a certificate of occupancy shall constitute a violation of this law.
 4. In accordance with Municipal Home Rule Law §10(4), the municipal attorney or other person appropriately designated by the County District Attorney and the [Town Board/Village Board of Trustees /City or Common Council] of the [Town/Village/City] of _____, may also commence an appropriate action in a court of competent jurisdiction to enforce the provisions of this law through a civil action seeking injunctive relief, as well as the collection of a penalty or fine and other appropriate relief.
 5. Violations of this law result in the removal of the kitchen facilities in the accessory dwelling unit or removal of the entire cottage within _____ [90, 120 150, 180] days after any such violation has been determined.

Section 11: Severability

If any section, subsection, paragraph, clause, phrase or provision of this section shall be judged invalid or unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this local law as a whole or any part thereof other than the part or provision so judged to be invalid or unconstitutional.

Section 12: Effective Date

This local law shall take effect immediately after filing with the Department of State in accordance with New York Municipal Home Rule Law § 27.

Appendix A

Application Form for Accessory Dwelling Unit

Applicants must provide the following documents to the enforcement officer or the [authorized board] of the [Town/Village/City] of _____, unless that authorized board grants a written waiver of the need for any such document. An application must include:

1. The name and address of the record owner of the parcel.

2. Applicant's name and address, if different from that of the record owner.
3. Tax Map number of the parcel.
4. Zoning and planning history for the parcel, including current and prior land use, other applicable special use permit approvals and variance approvals.
5. An application fee of \$_____.
6. A survey of the parcel prepared by a licensed land surveyor.
7. A map showing the entire area of the property in relation to adjacent and nearby uses; public transportation and other transit services; grocery stores; community, recreational and religious facilities and institutions; social service programs and facilities; medical providers and facilities; and pharmacies.
8. A floor plan of the proposed accessory dwelling unit outlining the location and internal circulation among existing rooms or areas in the primary dwelling and on the residential property. The floor plan shall be based on an accurate base map such as the Tax Map and drawn at a scale of not less than 100 feet to an inch. The entire floor plan shall be shown on one sheet not exceeding 34 inches by 44 inches.
9. A map depicting the parcel with primary dwelling in relation to the property's height and area, points of ingress and egress, the parcel's existing conditions, contours and significant natural features, and its location to neighboring structures and thoroughfares located to a distance of _____ [100, 250, 500] feet from the parcel and primary dwelling.
10. For cottages, the following language must appear on the top of the front page of application in 18 point bold type:

“COTTAGES SHALL BE PERMITTED ON A TEMPORARY BASIS AND MUST BE REMOVED ONCE A SENIOR OR PERSON WITH A PERMANENT DISABILITY OR A CAREGIVER NO LONGER OCCUPIES IT OR THE PRIMARY DWELLING.”
11. For cottages, a detailed plan for removal when vacant.
12. Any other information or documentation requested on application.

Model #2

SENIOR HOUSING DISTRICT

I. OVERVIEW

This model local law enables a municipality to use the floating zone device to establish a new Senior Housing District in the zoning regulations and invite developers who wish to propose projects for senior communities to apply to the local legislative body for the new district to be mapped on their parcels.

Within the boundaries of a senior housing district, adult living communities can be created that will provide ample open space for attractive, well-designed living, recreational and social facilities, keyed to the needs and desires of senior citizens. Residential units and community buildings will be designed and constructed using universal design and visitability principles.

A Senior Housing District can be used in many different settings, from low density or open settings in suburban or rural locations, to more densely populated areas close to services and amenities in hamlets, town centers, villages and cities. In lower density areas, Senior Housing Districts can ensure that seniors have access to services, transportation and amenities.

In urban areas, the developer may construct new buildings as infill, or creatively renovate existing buildings. Built environments may have an added benefit of reclaiming existing infrastructure, which can reduce the cost of the project while encouraging sustainability. Senior districts may be built on sites and in buildings that were once used as schools, armories, hospitals, office complexes, retail centers, or factories. Existing buildings may provide unique architectural features, settings, amenities or other features that make them excellent candidates for a senior housing district. More densely populated locations also may offer greater walkability in an age-integrated community with civic and social opportunities.

Senior Housing Districts can support a variety of senior housing styles including multi-unit dwellings and smaller homes on smaller lots to accommodate degrees of independence, affordability and frailties that may occur during the elder years, and to encourage the benefits of socialization. Well-planned senior housing districts are located close to amenities or incorporate important amenities, such as health care, social services, retail stores, and common areas outside and inside of buildings, as well as options to meet the need for accessible transportation.

This model law can assist a municipality in fulfilling the comprehensive planning goal of providing vibrant senior housing communities. The local comprehensive plan must recognize the need for senior housing to justify establishment of the district. This excerpt from the Town of North Castle local law expresses:

Legislative intent. This district is established for the purpose of furthering the goals of the North Castle Comprehensive Plan by providing a multifamily residence district specifically designed for, and limited in occupancy to, seniors. It is intended that this new zoning district will be a "floating zone" whose implementation will require a legislative determination and rezoning by the Town Board on a case-by-case basis after consideration of the specific site, the specific development plan and the specific housing program.

The model senior housing district local law utilizes a floating zone technique, which affords municipalities' flexibility in establishing the location of the district. A floating zone is a zoning designation (the "Senior Housing District") that is written into the text of the zoning regulations.

The zone "floats" and is not depicted on the zoning map until an application has been received for the development of a specific parcel of land, reviewed and approved by the local governing board in accordance with all the applicable floating zone standards. After the governing board grants final approval and adopts the floating zoning district, its location will be depicted on an amended zoning map.

In this model law, the proposed development application will be reviewed for site plan approval by the local governing board. Site plan standards are provided in this model local law. The planning board will assist in the review by providing advice and making recommendations to the local governing board.

II. TEXT

Enacting Clause

Be it enacted by the [Town Board/ Village Board of Trustees /City or Common Council] of the [Town/Village/City] of _____ as follows:

Section 1: Title

A local law relating to the establishment of a Senior Housing District Floating Zone in the [Town/Village/City] of _____.

Section 2: Enabling Clause

This local law is adopted in accordance with the authority of Section 10 of the Municipal Home Rule Law to establish zoning districts that provide affordable and accessible housing for seniors and is consistent with the directives and policies outlined in New York State Elder Law § 202(14).

Section 3: Purpose

- A. This local law is intended to implement the policies for the development of senior housing as outlined in the [Town/Village/City] of _____ Comprehensive Plan for the [Town/Village/City] of _____.
- B. The [Town Board/ Village Board of Trustees /City or Common Council] of the [Town/Village/City] of _____ has determined that:
1. Establishing senior housing districts serves an important inclusionary purpose in addressing the need for senior housing.
 2. Housing for seniors, properly located near services, shopping, transportation and support networks, is beneficial to the general welfare and health of seniors and the public.
 3. Encouraging the development of market-priced and affordable multiple-dwelling units for seniors provides a range of housing choices that can enable seniors of various abilities and income levels to live there without leaving established networks of nearby family and friends.

4. Providing, within the boundary of the project, social, recreational and other facilities, contributes to the independence and well-being of seniors.
5. The safety and convenience of residents will be enhanced through site and housing unit design requirements which consider:
 - a. The special physical and social needs of seniors; and
 - b. The physical characteristics of the project site.
6. When establishing the Senior Housing District in a setting that involves renovating or adding residential space to an existing building, allowing mixed uses, such as medical offices, retail, entertainment and services on the first floor of residential buildings, which are compatible with the senior housing district, will encourage the continued use of existing structures, preserve the historic characteristics of the hamlet/urban areas, promote social interaction, encourage integration of the senior housing district into the existing neighborhood, and encourage the design of new construction to be compatible with existing buildings.
7. Creating a floating zoning which can be mapped in certain areas within the [Town/Village/City] provides flexibility in designing, on a large or small scale, senior housing opportunities that will be integrated into the existing fabric of the community.

Section 4: Definitions

As used in this local law, the following terms shall have the meanings indicated:

ADULT DAY CARE CENTER - A facility which provides therapeutic programs of social and health services as well as activities for adults who have functional impairments in a protective environment that provides as non-institutional an environment as possible. Participants use services for less than 24 hours a day.

ADULT LIVING COMMUNITY - A planned residential development, with or without mixed uses, consisting of a building or group of buildings for seniors. These buildings may contain multifamily dwelling units, two family duplex dwelling units, single-family cottages, or a mixture of these dwelling unit types, offering universal design features and adaptability for all physical abilities. Accessory retail uses may be located on the first floor of residential buildings. The Adult Living Community can be designed as an Independent Living Facility and/or Congregate Housing, but shall not include Residential Health Care Facilities, Assisted Living Facilities or Continuing Care Retirement Facilities which are separately regulated by New York State.

AFFORDABLE UNIT - Affordable units available in an Adult Living Community are those which have:

1. A *sales price* within the means of a household income which is 100% or less of the adjusted median family income; or
2. A *rental price* within the means of a household income which is 80% or less of the adjusted median family income.

To be eligible to purchase an affordable housing unit in the Senior Citizen Housing District, the elderly family's income must be no more than 100% of the adjusted median family income. To be eligible to rent an affordable housing unit in the Senior Citizen Housing District, the elderly family's income must be no more than 80% of the adjusted median family income.

ALLEY - A narrow, low-speed right-of-way (between 16-24 feet wide) located behind buildings that provides access to rear-entry parking, garages, garbage removal, service areas and/or accessory structures. It may also accommodate utilities, in shoulders or easements. Alleys can provide shortcuts for pedestrians and cyclists and are not intended for the general traffic circulation.

APPLICANT - Any person, corporation or other entity applying for a Senior Housing District designation.

ASSISTED LIVING FACILITY - A facility that blends residential, on-site monitoring and personal services and/or home care services, in a home-like setting, to five or more adult residents unrelated to the assisted living provider and constructed, operated, and providing oversight pursuant to Article 46-B of New York State Public Health Law (Assisted Living Reform Act of 2004), NYCRR Title 10, Section 4662, Part 1001.

CAREGIVER - A person who actively provides necessary care to a senior occupant, who is temporarily or permanently unable to perform tasks of personal or household care necessary for everyday survival. Care includes, but is not limited to assisting with daily activities, companionship, administering medication, providing therapy, and tending to the needs of a sick, injured, physically or mentally challenged, or disabled senior.

CONGREGATE HOUSING - A facility consisting of a building, or a group of buildings in a neighborhood setting, which serves as a residence for seniors who can live independently, but where meals may be available in a dining room setting. Residents may be offered a variety of housing choices such as a stand-alone cottage/house, townhouse, apartment or accommodations with shared common areas and a variety of price ranges. In congregate housing developments, services provided may include food service, social service and referral consultation, housekeeping assistance and central laundry. No licensed professional medical care or related services are directly provided by on-site staff. Congregate Housing shall not include Residential Health Care Facilities, Assisted Living Facilities or Continuing Care Retirement Facilities which are separately regulated by New York State.

CONTINUING CARE RETIREMENT FACILITY - A facility or facilities that provide a comprehensive, cohesive living arrangement for the elderly, oriented to enhance the quality of life. It provides independent living units, and provides a meal plan, a range of health care and social services, and access to health services, prescription drugs, and rehabilitation services. These facilities are constructed, operated, and overseen pursuant to Article 46 of New York State Public Health Law.

GREEN BUILDING - Structures that incorporate the principles of sustainable design in which the impact of a building on the environment will be minimal over the lifetime of that building. Green buildings incorporate principles of energy and resource efficiency, practical application of waste

reduction and pollution prevention, good indoor air quality, natural light to promote occupant health, and efficiency in design and construction.

INDEPENDENT LIVING FACILITY - A building, portion of a building or group of buildings containing dwelling units with full kitchens and bathrooms specially designed for use and occupancy by seniors.

MIXED USE STRUCTURES - Buildings that blend, as a unified complementary whole, a mixture of residential uses and accessory business and retail uses in a single structure. By incorporating retail space on the first floor of residential buildings, mixed-use developments allow residents to conduct their daily affairs on site and without the need for a vehicle, and also provide additional retail areas for the public.

OPEN SPACE - Any area of land essentially unimproved and set aside, dedicated, designated or reserved for recreation or conservation or left in its natural state.

RESIDENTIAL HEALTH CARE FACILITY - Residential facilities providing rooms, supportive assistance, health care, skilled nursing care, and therapies. These facilities are constructed, operated, and overseen pursuant to Article 28 of New York State Public Health Law and 10 NYCRR § 86.2.

SENIOR - An individual who is at least _____ [55/60/62/65] years of age.

SITE PLAN - A written schematic prepared to specifications, showing the arrangement, layout and design of the proposed development including the location of proposed buildings, streets and sidewalks on the site. For purposes of this local law, site plan review will be conducted by the [Town Board/ Village Board of Trustees /City or Common Council] in accordance with [Town Law § 274-a/Village Law § 7-725-a/General City Law § 27-a].

UNIVERSAL DESIGN - The design of buildings and installation with fixtures and equipment that are accessible to, and usable by, people of all ages without the need for special adaptation or specialized design. The goal for universal design is to create a safer, more comfortable and user-friendly place to live by incorporating accessible and barrier-free design into buildings.

VISITABILITY - Construction standards that allow people with mobility impairments to live and visit, featuring wide doorways, at least one half-bath on main floors, accessible placement of electrical controls, and one zero-step entrance to buildings.

Section 5: General Provisions

- A. The Senior Housing District is established in the zoning regulations. The Senior Housing District is a floating zone, unmapped at initial adoption, and created by amendment to the official zoning map through exercise of the [Town Board/Village Board of Trustees/City or Common Council]'s legislative authority.
- B. Before amending the zoning map to create a Senior Housing District, the [Town Board/Village Board of Trustees/City or Common Council] shall consider, on a case-by-case basis, an

applicant's site plans to develop an Adult Living Community in appropriate locations and in a manner that complies with the requisites of this law.

Section 6: Site Selection

- A. Senior Housing Districts may be approved in the following zoning districts ____, ____, ____ and _____. Such district shall be affixed to the official zoning map where such district is approved.
- B. Sites must be located in areas suitable for residential purposes, preferably a topographically flat area with minimal grade separation between the facility and the surrounding area.
- C. Sites must be reasonably free of industrial odors, noise, dust, air pollution, incompatible land uses, steep slopes, wetlands and other environmental or physical constraints.
- D. Sites should be located within close proximity (approximately 600 feet) to public transportation services or, in the alternative, designed for future routing of buses, shuttle buses or other transportation service at the site.
- E. Sites must be selected with reasonable transportation access to hospitals and medical services, shopping, religious and cultural activities, recreational facilities, libraries, municipal buildings, and social services patronized by seniors.

Section 7: Permitted Uses

- A. In a Senior Housing District, all buildings or premises shall be used as an Adult Living Community, including where approved mixed use structures are part of the district (See Section 7 (C.), below). The dwelling units shall be available for sale or lease, designed to provide living, recreational and dining accommodations for seniors. Occupancy shall be limited to households which consist of:
 - 1. One or more persons who are seniors.
 - 2. A spouse (over or under the age of ____ [55/60/62/65]) of a qualified resident senior citizen.
 - 3. One adult caregiver 18 years of age or older residing with a senior citizen, provided that said adult is essential to the long-term care of the senior citizen as certified by a physician duly licensed in New York State.
 - 4. A child or grandchild with disabilities, who is related to a qualified resident, provided that the senior resident is a parent or grandparent of the child.
 - 5. Exception. Notwithstanding the other provisions of this section, one unit may be occupied by a project superintendent or manager and his/her immediate family.
- B. If dwelling units will be offered for sale, affordable units shall be incorporated into the development to provide housing opportunities for low and moderate-income seniors. All affordable units shall be deed-restricted for resale only to low- and moderate-income seniors.
- C. Mixed use buildings, with accessory uses such as those set forth in Section 8A, will be allowed on the first floor if compatible with the Adult Living Community development and the surrounding hamlet or urban setting. Uses open to the public shall be located on the first floor and shall have an exterior entrance. Mixed use occupancy shall be limited to uses that offer services/support for seniors. These services also offer services/support to the general public.

Section 8: Accessory Uses

A. Mixed Uses - Senior Housing Districts may provide for some accessory uses on the first floor of residential buildings, which are accessible to residents and the public alike. Among the accessory uses are:

1. Medical/health/dental office
2. Pharmacy
3. Café/restaurant
4. Market/convenience store
5. Salon/spa/barber shop
6. Gift shop
7. Bookstore

B. Senior Housing Districts may provide for some or all accessory uses that are customarily incidental and subordinate to the primary uses, which are limited to use by residents, their guests and employees. Among the accessory uses are:

1. Adult day care center
2. Community meeting rooms
3. Library
4. Group dining rooms; casual dining options
5. Social service delivery offices, limited to use by residents, with no visible sign announcing their presence
6. Physical therapy, sauna/spa whirlpool, Jacuzzi and exercise rooms, limited to use by residents
7. Outdoor active and passive recreation space, outdoor sitting areas, walking trails or other similar outdoor recreation or leisure facilities
8. Art and music studios
9. Clubhouses
10. Computer rooms
11. Wellness center
12. Indoor and/or outdoor swimming pools
13. Tennis, paddleball and handball facilities
14. Shuffle board and basketball courts
15. Indoor recreation or leisure facilities, including game rooms, movie theaters and concert halls
16. On-site storage areas
17. Inter-faith chapel
18. Guest suites for overnight visitors
19. Self-service laundries (washers and dryers)
20. Group-service laundry facilities necessary to operate the housekeeping services and dining facilities of the Adult Living Community

Section 9: Area and Density Regulations

The following area and density requirements shall apply to Adult Living Community projects within a Senior Housing District:

- A. Tracts which are _____ [2; 5; 10] acres or larger shall be eligible for Senior Housing District designation. [Municipalities may wish to allow smaller sites in hamlets/urban settings to encourage creative re-use of existing buildings/infill sites and to take advantage of nearby services, amenities, and infrastructure.]
- B. The Adult Living Community shall have a maximum density of 10 dwelling units per gross acre. A density bonus may be permitted pursuant to paragraph 5 to increase the density.
- C. No building or structure shall hereafter be erected or altered to exceed _____ [55] feet in height.
- D. _____ [Thirty-five (35%) percent] of the total tract area must be in common open space. A minimum of _____ [50%] of the common open space must be area usable for active recreation. This land shall be exclusive of any land area used primarily for vehicular modes of transportation, including roads, parking areas, garages and other features.
- E. Affordable Unit Density Bonus. Developers who propose to include affordable units are entitled to pursue an increase in the density of the permitted number of units by as much as _____ [25%] of the units which could be permitted if the land were developed into lots or units conforming to all the normally applicable requirements of this section. For every two approved affordable housing units, the developer shall be entitled to build one additional market-rate unit, up to a maximum unit count of _____ [25%] above the permitted number of units.
- F. Green Building Density Bonus. Developers who propose to include green building technology meeting the standards of the National Green Building Standard rating system or the Leadership in Energy and Environmental Design (LEED) green building rating system (version 4) in a new development or in the rehabilitation and modernization of an existing building shall be entitled to an increase in the density of the permitted number of units by as much as _____ [25%] of the units which could be permitted if the land were developed into lots or units conforming to all the normally applicable requirements of this section. For every _____ [5] approved units or common hallways which incorporate each of the following green building technology energy practices, the developer shall be entitled to build one additional market-rate unit, up to a maximum unit count of _____ [25%] above the permitted number of units:
1. Solar collectors and/or fuel cells up to seven (7) feet above the applicable height limit or geothermal source heat pump;
 2. Green roofs as constructed in accordance with Real Property Tax Law § 499-aaa or green walls as constructed in accordance with 21 NYCRR § 508.7;
 3. All refrigerators, dishwashers, clothes washers, and ceiling fans initially installed in the residential units shall have earned the U.S. EPA's Energy Star label and all bathroom sink faucets, showers, toilets initially installed in residential units will have earned the U.S. EPA's WaterSense label;
 4. Use of daylighting and installation of energy efficient fixtures and technologies in common areas and hallways following the guidelines for lighting power density established by LEED v. 4.

Section 10: Criteria for Rezoning to Senior Housing District

In determining whether or not to approve the rezoning, the [Town Board/Village Board of Trustees/City or Common Council] shall consider whether the proposed district and development meet the following criteria:

- A. Whether the site is served by public water and public sanitary sewer facilities that are adequate to accommodate the additional demand placed upon them by the proposed development. If public sewer facilities are not available, an independent sewage disposal plant, approved by the [Town/Village/City] Building Department, must be constructed for the sanitary disposal of the sewage to accommodate expected demand.
- B. Whether the site is well-drained, and stormwater generated by development of the site shall not place an undue burden on existing facilities or contribute to downstream flooding.
- C. Whether the site is located in an area suitable for residential purposes and shall be reasonably free of objectionable conditions, such as odors, noise, dust, air pollution, incompatible land uses and other environmental constraints.
- D. Whether the site is located within reasonable proximity to public transportation service, or, in the alternative, shuttle bus or other transportation service shall be available to the site.
- E. Whether the public roads outside the project site are adequate to bear the additional traffic that will be generated by the Adult Living Community, and meet current engineering standards of the municipality with respect to roadway width and alignment, and have acceptable sight distances at the site entry/exit and at intersections in the vicinity of the site.
- F. Whether the architectural style of the proposed development, exterior materials, finish and color is consistent with existing community and neighborhood character.
- G. Whether the site includes appropriate amenities, such as recreational facilities, game rooms, meeting rooms, lounges and exercise rooms.
- H. Whether quality affordable housing is made available to seniors, and whether the scope and design of the project will establish a worthwhile asset for this segment of the community and the community as a whole.

Section 11: Application Procedure

- A. A complete application. A complete application for a zoning amendment to establish a Senior Housing District by amendment of the zoning map shall be made to the [Town Board/Village Board of Trustees/City or Common Council]. A complete application shall consist of application form, a site plan, an environmental assessment form or draft environmental impact statement, a survey, a metes and bounds description of the property plotted against the zoning map and an application fee. Upon submission of a complete application as defined, the [Town Board/Village Board of Trustees/City or Common Council] may refer the application to the Planning Board for its recommendation.

B. Application form. The applicant shall submit a completed application form that includes:

1. The name and address of the owner of record and applicant, if different.
2. A succinct narrative of the intent and attributes of the proposed district(s) that describes the location, conceptual design, and use of any land and structures.
3. The acreage of the parcel and the county tax map number(s).
4. The boundaries of the parcel.
5. The location and width of existing or proposed State, county or [Town/Village/City] highways or streets and rights-of-way abutting or within 500 feet of the parcel.

C. Site Plan. The applicant shall submit a site plan, drawn to scale, which shall consist, at a minimum, of the following:

1. Compliance with Section 12: Building Design Standards.
2. The approximate location and dimensions of proposed buildings and uses on the site, proposed building spacing, yard setbacks, proposed location and design of all streets, alleys, driveways, parking lots, parking garages, loading areas, screening, landscaping, open spaces and recreation areas, proposed architectural features of all buildings, the relationship of the proposed development to adjacent land, and the health, safety and general welfare of the community.
3. The number of dwelling units by housing type and size, plus a calculation of the density, in dwelling units per acre allowed per current zoning regulations. Any request for a density bonus shall also be specifically set forth, with the proposed density bonus units identified.
4. A topographical map identifying the boundaries and physical characteristics of the site.
5. The approximate location and nature of pedestrian circulation systems, open space and outdoor recreation areas on the site.
6. A vicinity map showing the proposed site in relation to: adjoining uses, grocery stores, community facilities, social service facilities, post offices, public transportation, medical facilities, pharmacies, religious institutions and proximity to other active adult living communities.
7. Preliminary floor plans and building design and elevations.
8. A description of the proposed rents or selling prices within a reasonable range.
9. A statement as to the percentage, type, number of bedrooms and the location of affordable units.
10. The proposed source of water supply and method of delivery to the site.
11. A general plan for the collection and disposal of sanitary wastes from the site.
12. A general stormwater management plan and how it is to be connected to the drainage systems of adjoining land. If retention or detention basins are proposed, ownership information and maintenance responsibilities shall be noted.
13. Preliminary identification of topography that will be disturbed and areas that will remain undisturbed by project implementation.

D. Survey. The applicant shall submit a survey of the parcel prepared and certified by a license land surveyor which shows:

1. The location and outline of existing structures both on the parcel and within 100 feet of the property line.

2. The location of any existing storm or sanitary sewers, culverts, swales, water lines, hydrants, catch basins, manholes, etc., as well as other underground or aboveground utilities within or adjacent to the parcel.
 3. The location of any existing storm or sanitary sewers, culverts, water lines, hydrants, catch basins, manholes, as well as other underground or aboveground utilities within or adjacent to the parcel.
 4. The location and outline of existing water bodies, streams, marshes or wetland areas and their respective classification as determined by the appropriate governmental regulatory body.
 5. The approximate boundaries of any areas subject to flooding or stormwater overflows.
 6. Freestanding trees with a caliper d.b.h. of 10 inches or greater located within the parcel.
 7. Existing contours at an interval of five feet (or less) and extending no less than 50 feet onto adjoining property.
- E. Metes and bounds description. The applicant shall provide a metes and bounds description of the proposed district. The description shall also indicate the location where the district will be plotted on the zoning map.
- F. Environmental. The application shall also be accompanied by a full environmental assessment form or a draft environmental impact statement as required by Article 8 of the Environmental Conservation Law.
- G. Application Fee. An application shall be accompanied by an application fee as set by the [Town Board/Village Board of Trustees/City or Common Council]. All application fees are in addition to any required escrow fees and do not cover the cost of environmental review. The applicant shall be responsible for the total cost of environmental reviews that are determined to be necessary to meet the requirements of the State Environmental Quality Review Act (SEQRA). In addition, if the [Town Board/Village Board of Trustees/City or Common Council] requires professional review of the application by designated private planning, engineering, legal or other consultants, or if it incurs other extraordinary expense to review documents or conduct special studies in connection with the proposed application, the reasonable cost of said reviews shall be funded by the applicant with deposits made to an escrow account established for this purpose.

Section 12: Building Design Standards

- A. Developers must ensure that proposed Adult Living Communities are planned as a cohesive unit with a comprehensive site plan and exhibit creativity and variety in design features, circulation and utility service. Architectural styles must be compatible and attain a high standard of design. These guidelines shall be applicable to all proposed Adult Living Communities.
1. Buildings in the Adult Living Community should be grouped together to create an attractive and engaging streetscape.
 2. Buildings that face the street should relate to the street through interesting façades, entranceways and window treatment.
 3. Building design should reflect elements of traditionally styled local architecture, appear as a comprehensive sequence in size and shape, be compatible with adjacent buildings and positively contribute to the architectural theme of the Adult Living Community.

4. Each building and living unit shall exhibit superior universal design, quality of construction, appearance and operational standards.
5. New construction should feature elements such as open or enclosed porches, parks, courtyards or plazas and landscape amenities that are at a human scale.
6. Creative use of gables, dormers, and other roofline elements to highlight entrances and bring a sense of architectural distinction are encouraged.
7. Longer buildings should provide fluctuations in the roofline, designed to break up the monotony of the façade and make entryways more prominent. The maximum length of an uninterrupted building façade facing streets shall be thirty (30) feet.
8. Antennas, satellite dishes, air-handling units and other mechanical equipment placed on a roof should not be visible from the street, with the exception of solar collectors.
9. A separate drop-off and pickup area shall be required adjacent to the main building entrance, located in a manner that will not create congestion on the sidewalk or crosswalk.
10. Green building design and alternative energy measures are strongly encouraged, including:
 - a. Green roofs/walls - to reduce energy cost, reduce stormwater runoff, extend the life of the roof and filter dust particles.
 - b. Geothermal energy – geothermal heat pumps to provide heat and cooling to the building.
 - c. Solar panels - to generate heat or electricity.
 - d. Bioretention system – to process and remove contaminants and sedimentation from stormwater runoff by collecting stormwater into a treatment area consisting of a grass buffer strip, sand bed, ponding area, organic or mulch layer, planting soil, and plants.
 - e. Permeable pavement - use sustainable materials and techniques for permeable pavements with a base and subbase that allow the movement of stormwater through the surface, to reduce runoff, trap suspended solids and filters pollutants.
 - f. Onsite stormwater harvest and reuse – collect rainwater in rain barrels or cisterns and use for irrigation or for non-potable activities.
 - g. Density bonus is available for incorporating these features into the project design. [See Section 9, above].
11. Supply broadband connections to all units to the extent practicable.

B. Independent living facilities may be designed and constructed as multi-story apartment buildings, duplexes, cottage-style living, and/or mixed-use buildings in a walkable, neighborhood-like setting. The building design standards stated above shall govern the layout and design of the buildings in the community.

Section 13: Dwelling Unit Requirements

- A. Unit size. The minimum permitted floor area shall be _____ [600; 800; 1000] square feet for a one bedroom unit. The minimum permitted floor area shall be _____ [1000; 1200] square feet for two-bedroom units.
- B. Unit amenities. All dwelling units shall be designed for independent living and shall:

1. Contain full kitchen facilities, including but not limited to a sink, refrigerator, stove, range or combined unit.
2. Be adaptable for individuals with disabilities. Twenty-five percent of all dwelling units shall be adaptable for use by individuals with disabilities.
3. Be accessible to individuals with disabilities. Twenty-five percent of all dwelling units shall be accessible to individuals with disabilities.
4. Contain:
 - a. Doorways that are a minimum of three feet wide to accommodate wheelchairs.
 - b. Lever-type doors, handles and faucets.
 - c. Nonskid floors.
 - d. Ramps in addition to steps.
 - e. Door thresholds that are flush with the floor.
 - f. One no-step entrance on an accessible path.
 - g. Electric outlets located a minimum of 24 inches above the floor.
 - h. Luminous light switches in bedrooms, bathrooms, and corridors located no higher than 48 inches above the floor.
 - i. A bathroom on the main level of each unit with enough space to accommodate wheelchair. Each bathroom shall have a toilet, and a bathtub or shower stall with a built-in bench or room for a bath stool. All bathrooms shall:
 - 1) be constructed without sharp surfaces and with non-slip floor surfaces;
 - 2) provide backing for full grab-bar installation around showers and tub areas;
 - 3) have doors that open out;
 - 4) have one-handed control of water taps; and
 - 5) have direct access to bedrooms and living room.
 - j. Mechanical ventilation, whenever natural ventilation is not adequate for comfort and health and whenever kitchens and bathrooms do not have windows on an exterior wall.
 - k. Air conditioning with an individually controlled thermostat.
 - l. Adequate heating system with a designed capacity to maintain 78° F. in all bathrooms and 75° F. in all habitable rooms, with an individually controlled thermostat.
 - m. Electric outlets located a minimum of 24 inches above the floor.
 - n. Broadband connection should be available in every unit, to the extent practicable.
 - o. Corridor of a length and design to facilitate wayfinding, including a route on visitable floor that has a clear minimum width opening of 32 inches.
 - p. Elevators for access to all units above the first story.

Section 14: Sidewalks and Walkways

Adult Living Communities shall emphasize pedestrian circulation and provide a safe and reasonable system of vehicular circulation and parking conveniently accessible to all occupants. Sidewalks shall follow streets and link buildings, parking areas, transit stops and adjacent properties. Roads shall be designed to calm vehicular traffic on streets and roads within the Adult Living Community to ensure pedestrian and bicycle friendly design and traffic safety. Benches shall be provided at appropriate intervals.

- A. Continuous pedestrian sidewalks or walkways shall be provided along roads and streets and include connections to the entrance of all buildings on the site. Walkways shall connect

pedestrians to transit stops, street crossings, buildings and store entry points, and central features and community spaces on the site.

- B. A minimum 5-foot landscaped buffer shall be provided between the street edge and a paved sidewalk or walkway area. Landscaped areas shall include trees, shrubs, benches, flower beds, ground covers, or other such materials without obstructing the path of travel. Trees planted in buffers shall have a caliper of no less than 1½ inches when planted. Ground covers shall be planted in such a manner so as to present an attractive appearance and reasonably complete coverage within one year of planting.
- C. Slopes in excess of 1:3 shall be avoided. Where exceeded, handrails shall be provided and set at a minimum of 3.5 feet in height.
- D. Where the vertical drop exceeds a down slope grade of 1:2, and is located less than 4 feet from the edge of the sidewalk or walkway, a guard rail shall be provided. Grades in excess of 5 percent shall be avoided.
- E. Sidewalks shall incorporate universal access standards for individuals with developmental disabilities where appropriate and necessary.
- F. Sidewalks and walkways shall be placed behind designated transit stop locations, when applicable.
- G. The use of permeable paving systems for sidewalks, including porous concrete, porous asphalt, concrete grid pavers and permeable interlocking concrete pavers, is strongly encouraged.
- H. To encourage pedestrian and bicycle circulation, amenities such as benches, bicycle parking racks, and appropriate signage shall be provided near all building entrances and appropriately spaced along sidewalks.
- I. Trash bins shall be conveniently located and shall be covered and screened using similar design and materials to the primary building.
- J. Benches or other seating shall also be provided at a minimum of one bench or other seating every 60 feet along walkways or sidewalks. Benches shall be located so as to avoid obstructing the path of travel. Benches/seating shall be wheelchair accessible.
- K. Passenger drop-off shall be located near entrance and elevator halls of buildings.
- L. All pedestrian crosswalks shall be distinguished by the use of durable, low maintenance surface materials such as pavers, bricks, stamped asphalt, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Painted, stamped, or elevated crosswalks will be provided where a sidewalk crosses an interior road or street.
- M. Adequate facilities shall be provided for the removal of snow, trash, leaves, and garbage and for

general maintenance of the project.

- N. Temporary winter snow storage areas shall be located so as to not block sidewalks, walkways or bikeways.

Section 15: Street Design Standards and Traffic Calming

A well-defined streetscape creates an attractive environment with clearly defined pedestrian, vehicular, and shared or overlapping zones. At intersections, at crossings and in parking lots where pedestrian traffic is likely, traffic-calming mechanisms shall be utilized. Traffic-calming elements include:

- A. The alignment of intersections for clear visual observation.
- B. Traffic calming strategies are encouraged to slow traffic and to increase the safety of pedestrians.
- C. Narrower street widths, with a minimum width of ten (10) feet.
- D. Speed tables or bumps at the edges of pick-up/drop-off zones in front of building entrances.
- E. Changes in pavement materials, texture, color and pattern, especially at crosswalks.
- F. Construction of sidewalks, curbs and curb bump-outs or extensions.
- G. Incorporation of pedestrian crosswalks.
- H. Use of street trees and planted medians.
- I. On-street parking.
- J. Use of appropriate signage, lighting, pedestrian crossing signals and traffic lights.
- K. Traffic calming techniques of the Institute of Traffic Engineers, sponsored and funded by the Federal Highway Administration <http://www.ite.org/traffic/tcdevices.asp>.

Section 16: Streets and Alleys

- A. Where possible, streets should be arranged in a general grid pattern with alleys in the rear of buildings.
- B. Each street and alley must have sufficient roadway access to provide for emergency services vehicles.
- C. The use of permeable paving systems for alleyways, including porous concrete, porous asphalt, and plastic reinforcing grids for parking spaces, drive aisles and vehicular circulation areas, is required. Material to fill the open cells of the pavement system types shall consist of open graded fine aggregate and open graded washed aggregate. The pavement section shall consist of the

surface course or layer for infiltration, a bedding course (as required), an aggregate storage layer, and a woven geotextile fabric layer to prevent clogging.

- D. All street and alleys within the Adult Living Community shall be provided with suitable artificial lighting, sufficient for the convenience and safety of seniors. Lighting shall be designed so as not to extend onto adjoining properties or cause glare. In general, lighting levels at the property line shall be 0.5 footcandle or less, other than at entrances to the Adult Living Community, where increased levels will be considered or required.

Section 17: Street Trees and Vegetation

- A. Streets within the Adult Living Community shall be bordered on both sides by shade trees.
- B. Shade trees shall be drought-tolerant, native or non-invasive species, upward branching so as to limit the need for irrigation and obstruction of sidewalks. Trees shall have a caliper of no less than three inches when planted. Planting of trees susceptible to insect damage should be avoided.
- C. Trees shall be located no more than _____ thirty-five (35) feet apart.
- D. Trees may be planted individually or clustered. Clumping is permitted, using both sides of the sidewalk for tree planting, in order to frame or enhance a view. The center of the tree should be four feet from pavement or curbs.
- E. Trees should be located so as to avoid obvious obstruction of visibility to drivers and so that branches do not protrude into the pedestrian path of travel, and to avoid interference between root systems and utilities.
- F. Trees must survive one year after planting prior to the release of performance guarantees.
- G. Each existing healthy, mature deciduous shade tree, with a caliper of three inches or greater, preserved within the required planting area may be substituted for planting one required street tree.

Section 18: Parking Design

- A. Parking lots shall be located behind buildings whenever possible. If circumstances somehow prohibit rear of building parking, front or side of building parking will be permitted as determined necessary by the [Town Board/Village Board of Trustees/City or Common Council].
- B. Where rear of building parking is provided, an entrance shall be provided in the rear of the building that is accessible from the parking lot, in addition to an entrance provided at the front or side of the building.
- C. Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the building.

- D. An accessible path of travel must be provided directly from van-accessible parking space(s) to a sidewalk.
- E. Curb ramps (or curb cuts) with detectable warnings must be provided wherever a curb is part of a path of travel and must be incorporated into the path of pedestrian or vehicular travel to/from crosswalks, when provided.
- F. One-way traffic flow may be required for high volume parking lots. When one-way traffic flow is required or provided, van-accessible parking spaces shall be located such that the access aisle is located on the passenger side of the parking space.
- G. The use of permeable paving systems for parking areas, including porous concrete, porous asphalt, and plastic reinforcing grids for parking spaces, drive aisles and vehicular circulation areas, is required. Material to fill the open cells of the pavement system types shall consist of open graded fine aggregate and open graded washed aggregate. The pavement section shall consist of the surface course or layer for infiltration, a bedding course (as required), an aggregate storage layer, and a woven geotextile fabric layer to prevent clogging.
- H. Larger parking lots shall incorporate elements such as islands with plantings to break up the mass and space of the parking lot and to provide for safe pedestrian navigation.
- I. The parking spaces required for multifamily dwelling units may be sited in a parking garage located within _____ 500 feet of the dwelling units. Parking garages shall receive architectural treatment consistent with that of principal buildings.

Section 19: Performance Guarantees; Miscellaneous

- A. The [Town Board/Village Board of Trustees/City or Common Council] may require a performance bond or other security in an amount sufficient to cover the full cost to complete the building and other improvements in the Adult Living Community, including landscaping, or to restore the project area to its original condition in the event of a failure by the applicant to comply with the requirements of this local law and/or conditions imposed during the zoning amendment or site plan review.
- B. The sequencing of the site construction shall ensure that the site amenities and the indoor community space is complete and usable, and all applicable certificates of occupancy and/or compliance obtained, before 50% of the dwelling units are occupied. If the developer has not accomplished the same, the developer shall not request building permits (nor shall any be issued) for any work for the second 50% of the dwelling units.
- C. Utility service to within the Adult Living Community shall be buried.
- D. Outdoor public address systems or other outdoor amplified noise shall be prohibited.

Section 20: Application Review and Decision

- A. The [Town Board/Village Board of Trustees/City or Common Council] may refer the completed application to the Planning Board for its report and recommendation. If it does so, the Planning Board shall make a recommendation on the application and shall report its findings to the [Town Board/Village Board of Trustees/City or Common Council] on the merits of the site plan. A favorable Planning Board recommendation shall not constitute or imply an approval of any sort, nor shall it constitute a decision upon an action under the State Environmental Quality Review Act.
- B. Public hearing. Upon receipt of the report and recommendations of the Planning Board and any revised proposed amendment from an applicant, the [Town Board/Village Board of Trustees/City or Common Council] may schedule and hold a public hearing on the proposed amendment.
- C. Notice of hearing. At least ten days' notice of the time and place of the public hearing shall be published in a paper of general circulation in such [Town/Village/City].
- D. Referral to County Planning Board. Not less than 10 days prior to the public hearing, the [Town/Village/City] Clerk shall forward copies of the proposed amendment with the notice of public hearing to the County Planning Board if the rezoning affects any land within 500 feet of any of the following:
1. A municipal boundary
 2. The boundary of an existing or proposed county or State park or recreation area
 3. The right-of-way of an existing or proposed county or State parkway, thruway, expressway, road or highway
 4. The existing or proposed right-of-way of a stream or drainage channel owned by the county or for which the county has established channel lines
 5. The existing or proposed boundary of any county or State owned land on which a public building or institution is situated
 6. The boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agriculture and Markets Law.
- E. Referral to Neighboring Municipalities: At least ten days prior to the date of the public hearing, written notice of any proposed regulations, restrictions or boundaries of such districts, including any amendments thereto, affecting property within 500 feet of the boundary of a city, village or town, shall be served personally or by mail upon the clerk of that municipality.
- F. [Town Board/Village Board of Trustees/City or Common Council] action. Following the close of the public hearing and completion of the SEQRA process, and if applicable, receipt of the county planning board's recommendation or after 30 days since the referral the [Town Board/Village Board of Trustees/City or Common Council] shall act to approve the proposed floating overlay zone designation and the proposed site plan, either with or without modifications, or disapprove the application. Among the factors to be considered are:
1. The proposal conforms to the [Town/Village/City] Comprehensive Plan;
 2. That the applicant provides for innovative and imaginative approaches to senior citizen housing;
 3. That the proposed application has appropriate height, scale, mass, size, shape and density in relationship to its location; and

4. That the applicant exhibits the wherewithal to complete the project.

G. [Town Board/Village Board of Trustees/City or Common Council] vote. The [Town Board/Village Board of Trustees/City or Common Council] may approve any proposed amendment to the zoning map by majority vote, except where a valid protest petition has been timely filed. The [Town Board/Village Board of Trustees/City or Common Council] shall impose any appropriate conditions on the zoning amendment and/or site plan review related to the development of the site. If the [Town Board/Village Board of Trustees/City or Common Council] grants the rezoning to Senior Housing District, the Zoning Map shall be so amended.

Section 21: Time Limit on Validity of Zoning Amendment

Any zoning amendment permitted by this section shall be null and void and the zoning of the parcel shall revert back to its original zoning classification, unless actual construction, pursuant to a valid building permit, is commenced within two years from the date of the zoning amendment.

Section 22: Severability

If any section, subsection, paragraph, clause, phrase or provision of this section shall be judged invalid or unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this local law as a whole or any part thereof other than the part or provision so judged to be invalid or unconstitutional.

Section 23: Effective Date

This local law shall take effect immediately after filing with the Department of State in accordance with New York Municipal Home Rule Law § 27.