

**(Use this form to file a local law with the Secretary of State.)**

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

**Town of New Scotland**

**Local Law No. 2 of the year 2008**

A local law creating a residential senior citizen housing district

**Be it enacted by the Town Board of the Town of New Scotland as follows:**

**SECTION 1.**

Section 190-99 of the Town of New Scotland Zoning Law is hereby amended to add the following two definitions:

- A. Congregate Dwelling – A Dwelling where several unrelated Seniors have private bedrooms and share common spaces, some meals and services.
- B. Universal Design – The design of structures and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.

**SECTION 2.**

The Town of New Scotland Zoning Law is hereby amended to add a new Article XV, as follows:

**ARTICLE XV**  
**Residential Senior Citizen Housing District**

**§ 190-101. Purpose.**

A. The Town of New Scotland wishes to encourage a variety of housing types to serve the present and future needs of our senior citizens. Residential Senior Citizen Housing Districts are intended to expand housing opportunities for senior citizens, who do not need skilled nursing care and who are capable of providing for their ordinary routine necessities of life.

This Article of the Town Code provides a means to develop housing in the Town for the special needs of this group.

**§ 190- 102. Limitations on Occupancy.**

A. The occupancy for a Residential Senior Citizen Housing District shall be limited to persons who are fifty-five (55) years of age or over ("Seniors"), and a developer of Residential Senior Citizen Housing ("RSCH") must demonstrate an intent to provide Dwelling Units for this age group in its marketing to the public and in its internal operations. A Developer of RSCH shall not discriminate on the basis of race, color, religion, sex, handicap, or national origin. Persons under the age of fifty-five (55) ("Non-Seniors") may be accommodated as residents in RSCH Districts under the following circumstances:

- (1) A Non-Senior spouse or domestic partner who is residing with his or her Senior spouse or domestic partner.
- (2) A child (under the age of nineteen [19]) who is residing with his or her Senior parent(s) or grandparent(s). Each such child must have his or her own bedroom (one child per bedroom).
- (3) A Non-Senior if it is established that the presence of such person as a resident is essential for the physical care of one or more Senior occupant(s).
- (4) A Non-Senior employee of the owner or operator of an RSCH District senior facility provided any such employee performs substantial duties directly related

to the management or maintenance of the RSCH District.

- (5) A Non-Senior with a disability, as defined under the Americans with Disability Act.
- (6) A temporary Non-Senior guest, residing with a Senior occupant for not more than thirty (30) consecutive days.
- (7) A surviving Non-Senior child (under the age of nineteen [19]) of a deceased Senior occupant, provided that the child resided with the Senior at the time of the Senior's death. The surviving Non-Senior child may continue to reside in the RSCH District for a period of six (6) months following the death of the Senior.

B. Certifying documentation of the age requirements of this Article shall be filed for each Dwelling Unit occupied. It shall be the duty of the owner of each Dwelling Unit in a RSCH District, or his or her agent, to file a Certificate of Compliance with the Town Building Inspector indicating compliance with the Town Code, as amended, relating to the age or status of the occupants in each Dwelling Unit. The Certificate of Compliance shall be filed for each Dwelling Unit within thirty (30) days after its initial Occupancy. A new Certificate of Compliance shall be filed within thirty (30) days after any change of Occupancy.

**§ 190-103. Standards.**

- A. The following types of Dwelling Unit shall be permissible in an RSCH District:
- (1) Single-Family Dwelling.
  - (2) Two-Family Dwelling.
  - (3) Multiple Dwelling.
  - (4) Congregate Dwelling.
  - (5) Any combination of the above.
- B. RSCH District Size. An RSCH District requires a site with a minimum of 5 acres or more of buildable land.

C. RSCH District Location. An RSCH District should provide residents with reasonable access to such conveniences and Facilities as Public transportation, medical services, shopping, Religious Institutions, cultural and Recreation Facilities, and Personal Service Outlets.

D. RSCH District Parking. An RSCH District must have a Parking Area sufficient to allow two cars, per Dwelling Unit to be parked off of any Street pavement, not including any garage area or areas necessary for snow removal.

E. RSCH District Architectural Design. RSCH Districts shall be of a quality, character, compatibility, and appearance that is in harmony with the surrounding neighborhood. The design of an RSCH District must not adversely affect the general welfare of the inhabitants of the Town. The Town Board or Planning Board will review, and may require modifications of, exterior architecture and landscape features of a proposed RSCH District, including, but not limited to, buffer areas.

F. Utilities. The design of any on-lot water source or on-lot septic system to be utilized by an RSCH District must meet the design and operation standards of the Albany County Department of Health and the New York State Departments of Health and Environmental Conservation, as well as any additional requirements of the Town.

G. Streets. Except as provided for in this Article, Streets shall conform to existing Town laws and regulations, including Chapter 110, Highway Specifications, of the Town Code, and shall be dedicated as Town Streets if accepted by the Town Board.

(1). The Town Board may, after soliciting a review and recommendation from the Planning Board and Town Highway Superintendent, approve a private Street.

(2).The Town Board or Planning Board may modify Chapter 164, Sections 164-34 and 164-35 of the Town Subdivision Law, as it pertains to Street alignment and pavement width, where, in the determination of the Planning Board said modification is justified, provided that the Town Highway Superintendent shall be

notified and consulted prior to any such modifications.

H.Homeowners' Association. Applicants are required to make legal provisions consistent with Section 190-63 of this Chapter, where such Section of the Town Zoning Law applies.

I. Open Space. Applicants are required to make legal provisions consistent with Section 190-62 of this Chapter, where such Section of the Town Zoning Law applies.

#### **§ 190-104. RSCH Determination Standards.**

A. General Site Standards for Planning Board. In evaluating an Application for the establishment of an RSCH District the Town Board or Planning Board shall consider the following standards .

(1) Community infrastructure and services, including protective services, Streets, garbage collection, schools, and Public Water and Public Sewer Facilities, are currently, or will be, of adequate capacity to accommodate the Proposed RSCH District.

(2) The proposed site possesses adequate soil capacity and natural features to safely support Proposed Facilities and Structures, including on-lot water source and on-lot septic system at the Site.

(3) The proposed use, Building design, and site layout complies with all applicable provisions of this Chapter, as well as any other Town, state or federal statute, law or regulation.

(4) Vehicular and pedestrian traffic patterns associated with the RSCH District will be appropriate and satisfactorily established and managed for the area involved. Factors for the Planning Board to consider in making this determination include turning movements in relation to traffic flow, proximity to and relationship to intersections, adequacy of sight distances, location and access of off-Street Parking Areas, provision for pedestrian traffic, capacity of existing Streets, and minimizing pedestrian - vehicular contacts.

- (5) The proposed RSCH District, design and layout will be of such a location, size, and character that it will be in harmony with the appropriate and orderly Development of the surrounding area.
  - (6) The proposed location and height of Buildings or Structures, walls and fences, parking or loading areas and landscaping shall be such that it will not significantly impact appropriate Development of land adjacent to the proposed site.
  - (7) In areas where there are patterns and similarities in the scale and design of neighborhood Structures, the scale, design and material of the proposed Structure(s) shall be compatible with existing Structures within 500 feet of the site.
  - (8) Adequate screening, landscaping, exterior lighting, Signs and architectural design, compatible with the neighborhood, and of appropriate size and style will be provided to protect neighborhood properties within 500 feet of the Site from any adverse impacts that might result from the proposed use.
  - (9) The proposed project will reflect the natural capabilities of the Site to support such a Use. Buildings, Lots and support Facilities will be clustered in those portions of the Site that have the most suitable conditions for development. Environmentally sensitive areas, such as wetlands, steep slopes, floodplains, and unique natural features, will be maintained and preserved.
  - (10) The existing landscape will be preserved in its natural state in so far as practicable by minimizing tree removal and the disturbance and compaction of soil; and the proposed project will provide adequate landscaping to define Street edges and break up Parking Areas.
  - (11) As appropriate, Recreation Facilities (such as walkways, benches, shade trees, awnings and/or pavilions) and open space areas sufficient to meet the needs of users and residents will be provided, owned and managed in accordance with this Chapter.
  - (12) The proposed RSCH District has been approved by all other governmental entities and agencies which have jurisdiction.
  - (13) The proposed RSCH District will comply with the requirements of the State Environmental Quality Review Act.
  - (14) Proper Facilities are to be installed in compliance with any applicable stormwater management plan or stormwater management regulations.
- B. RSCH District Standards. In addition to the standards set forth in Subsection A above, the Town Board or Planning Board shall also consider, at a minimum, the following in rendering its Decision:
- (a) Whether a need exists in the Town or the area of the Town in which the proposed RSCH District is to be located for the type and number of RSCH Dwelling Units proposed in the Application
  - (b) Whether the proposed RSCH District complies with the Town's Comprehensive Land Use Plan.
  - (c) Whether the granting of the proposed RSCH District will alter the fundamental character of the Zoning District in which the proposed RSCH District is to be located.
  - (d) Whether the proposed RSCH District differs substantially from Permitted Uses in the immediate vicinity.
  - (e) Whether the granting of the proposed RSCH District will have the effect of discouraging or undermining Permitted Uses in the immediate vicinity.
- B. RSCH District Building Design and Site Layout. In addition to the standards set forth in Subsections A and B above, the Town Board or Planning Board shall also evaluate whether proposed Building designs and the Site layout will meet the needs of the target Senior population. The Town Board or Planning Board shall consider, at a minimum:

- (a) Whether Universal Design guidelines for senior housing have been incorporated.
- (b) Whether Dwelling Units will be designed for independent living.
- (c) Whether Dwelling Units will be handicapped accessible and include amenities such as: safety bars; lever-type doors, handles and faucets; nonskid floors; ramps in place of steps; and door thresholds that are flush with the floor.
- (d) Whether Dwelling Units that are not handicapped accessible will be adaptable for use by non-ambulatory persons.
- (e) Whether Building entrances, Recreation Facilities, common spaces and open space areas will be handicapped accessible.
- (f) Whether Building entrances will be sufficiently sheltered from the weather.
- (g) Whether appropriate lighting, including motion-controlled exterior lighting, will be provided for.

**§ 190-105. Minimum Lot Size and/or Dwelling Unit Square Footage.**

Class*	Single-Family Dwelling	Two-Family Dwelling	Multiple Dwelling	Congregate Dwelling** Dwelling Unit Square			
	Footage Lot Size apartment] (square feet)	Lot Size (square feet)	Lot Size (square feet)	[based on bedrooms per (square feet)			
				None	1	2	3
1	10,000	15,000	20,000	500	600	800	950
2	15,000	25,000	30,000	500	600	800	950
3	22,000	33,000	44,000	500	600	800	950

- \* Type of utility:  
 Class 1: public water source and public sewer.  
 Class 2: On-lot water source or on-lot septic system.  
 Class 3: No public water source or public sewer.

\*\* Lot Size for Congregate Dwellings will be determined based on the size of the proposed Structure as well as the availability of a public water source, public sewer, parking areas and stormwater management facilities, at the discretion of the Planning Board, on a case-by-case basis. In no event shall minimum lot size for a Congregate Dwelling be less than the minimum lot size that would be required for a Multiple Dwelling.

**§ 190-106. RSCH Application Procedure.**

A. Required Data. An Applicant shall furnish to the Town Board or the Planning Board an Application for the desired RSCH District and basic data, including:

- (1) A map at a scale sufficient to show the boundaries of the proposed RSCH District, existing Zoning, topography, draining and soil conditions;
- (2) Any sketch plan or other preliminary plans as may be required for an understanding of the proposed RSCH District;
- (3) A copy of the deed of record documenting ownership of the subject parcel(s);
- (4) If the Applicant is not the Owner of the subject parcel(s), the Applicant's name, address and interest in the subject parcel(s); and the owner's consent to the filing of the application.

(5) If the owner of the subject parcel(s) is represented by others, a statement of consent allowing for the representation;

(6) Any additional information as may be required by the Planning Board or Town Board.

(7) A filing fee as established by Resolution from time to time by the Town Board.

B. Establishment of an RSCH District, less than 25 acres.

(1) Application for the establishment of an RSCH District of less than 25 acres shall be made in writing to the Planning Board.

(2) Within 45 days of receiving such application, the Planning Board shall notify the Town Board that an application for the establishment of an RSCH District of less than 25 acres has been submitted.

- (3) Within 45 days of receiving notice from the Planning Board that an application for the establishment of an RSCH District of less than 25 acres has been submitted, the Town Board may elect to assume primary authority for considering such application in accordance with Subsection C.
  - (4) In the event the Town Board declines to timely assume primary authority for considering an application for the establishment of an RSCH District of less than 25 acres, such application shall be considered by the Planning Board.
  - (5) The Planning Board shall conduct Site Plan Review and hold a Public Hearing on the application. The Planning Board shall then either establish the RSCH District or reject the application.
- C. Establishment of an RSCH District, 25 acres or more.
- (1) Application for the establishment of a RSCH District of 25 acres or more shall be made in writing to the Town Board.
  - (2) The Town Board shall refer the Application to the Planning Board for its recommendation. The Planning Board may require such changes in the sketch plans or other preliminary plans as are found to be necessary or desirable to meet the requirements of this Chapter to protect the established or Permitted Uses in the vicinity, and to promote the orderly growth and sound development of the community. The Planning Board shall notify the applicant of such changes and may discuss the changes with the applicant.
  - (3) The Planning Board shall recommend approval, approval with modification, or disapproval of the application and shall report its Recommendation to the Town Board. The Planning

Board's Recommendation to the Town Board shall not constitute nor imply approval of an RSCH District for the area included in the application.

- (4) Following receipt of the recommendation of the Planning Board, the Town Board shall hold a Public Hearing on the application. The Town Board shall then either amend the Town Zoning Map and Code and any relevant law or regulation to establish the RSCH District or reject the application.

**§ 190-107. Waivers and Modifications.**

Existing Zoning District requirements applicable to the subject parcel(s) shall apply to any RSCH District, unless waived by the Planning Board or the Town Board. The Zoning requirements that may be waived for any RSCH District include, but shall not be limited to, lot width, lot depth and other various yard or bulk requirements, including setbacks. Lot size requirements, above the minimum lot areas set forth in Section 190-104 above, shall be determined, at the discretion of the Planning Board or Town Board. The Planning Board or Town Board may consider any factors the Planning Board or Town Board finds to be relevant provided, however, that the Boards shall consider, at a minimum, the presence or absence of a public water source and public sewer system, soil slopes and soil conditions.

**§ 190-108. Expiration of RSCH District Approval.**

Construction of an RSCH District established by the Town Board or Planning Board must commence within two (2) years of the RSCH District being established, and building permits remain active and renewed as necessary through the completion and issuance of Certificates of Occupancy, Use or Compliance, to avoid expiration of the RSCH District approval. One or more extensions of time, not to exceed one year each, may be

granted by the Town Board or Planning Board to extend the life of an RSCH District approval, provided the facts which supported establishing the RSCH district have not materially changed.

**§ 190-109. Future Development.**

- A. Upon the establishment of an RSCH District by the Planning Board or Town Board, no Building or land shall be used in that District except by a Special Use Permit as provided in this Chapter under Article IV, Special Use Permits.



**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2008 of the Town of New Scotland was duly passed by the New Scotland Town Board on March 12, 2008, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_ of the Town of New Scotland was duly passed by the New Scotland Town Board \_\_\_\_\_ on 20 \_\_\_\_, and was (approved)( not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20 \_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_ of the Town of New Scotland was duly passed by the New Scotland Town Board \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_, and was (approved) (not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 20 \_\_\_\_, Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_\_\_ of the Town of New Scotland was duly passed by the \_\_\_\_\_ on \_\_\_\_\_

20\_\_\_\_ , and was (approved)( not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_ . Such local

law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, 20 \_\_\_\_ , in accordance with the applicable provisions of law.

**\* Elective Chief Executive Officer means or includes the chief executive officer of a county**

**elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20 \_\_\_\_ of \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_, 20 \_\_\_\_ , became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20 \_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_ , pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

  
New Scotland Town Clerk


(Seal)

Date: 3/12/08

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF ALBANY

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature   
New Scotland Town Attorney

Date: 3/12/08