

LOCAL LAW NO. 2 – 2014

Be it enacted by the Town Board of the Town of Clarkstown as follows:

**Section 1. Title.**

A Local Law Amending Chapter 290 (Zoning) of the Local Laws of the Town of Clarkstown with respect to Senior Citizen Housing, Senior Citizen Congregate Housing and Assisted Care Living Quarters.

**Section 2. Legislative Intent.**

The purpose of this local law is to allow for a text amendment to Sections 290-3 and 290-17-O of the Zoning Code with respect senior citizen housing, congregate housing and assisted care living quarters.

**Section 3. Amend § 290-3. Definitions. as follows:**

Change the following definition to read as follows:

AFFORDABLE UNITS - Units offered at a sales price at which Income-Eligible Households can qualify for the purchase. For rental units, "Affordable Units" shall mean units offered at a monthly rental price equal to or less than one-third of the monthly income of an Income-Eligible Household.

Add the following new definition:

EFFICIENCY APARTMENT - An apartment which contains combined living, sleeping and kitchen (or kitchenette) areas in one room with a separate bathroom.

Change the definition titled SENIOR CITIZEN to read as follows:

ELIGIBLE SENIOR CITIZEN - A person having attained the age of 55 years and having been a resident of the Town of Clarkstown for at least five years.

Change the definition titled INCOME-ELIGIBLE to read as follows:

INCOME-ELIGIBLE HOUSEHOLD – A household with an income that does not exceed 60% of the Rockland County median income as published annually by the US Department of Housing and Urban Development. Third party verification of assets must be supplied by applicant and interest derived from all assets using a multiplier of 2% shall be included when determining total

assets. (Utilizing Section 42 of IRS Code and any amendments thereto). This shall be verified annually.

Change the following definition to read as follows:

**SENIOR CITIZEN HOUSING** - A building or a group of buildings which have the total number of dwelling units specifically designed for the needs of persons age 55 or older, except for a superintendent's unit, which may or may not be constructed with the assistance of mortgage financing or other financial assistance insured by or procured through or with the assistance of a municipal, state or federal governmental agency, and which is constructed and maintained by an organization or its wholly owned subsidiary incorporated pursuant to the provisions of the laws of the State of New York. This includes Assisted Care Living Quarters and Senior Citizen Congregate Housing.

Add the following new definition:

**STUDIO APARTMENT** - An apartment which contains combined living and sleeping areas in one room with a separate kitchen with full size appliances and a separate bathroom.

**Section 4. Amend § 290-17. Additional requirements for certain special permit uses. as follows:**

Delete the language in § 290-17O(A) in its entirety and replace with the following language:

O(A). Senior Citizen Housing, subject to the following conditions:

(1) Certification of corporation. A certified copy of the corporation papers of an applicant proposing to construct housing under this subsection shall be supplied to the Town Attorney's office for review and comments for compliance with the purpose and intent of developing dwelling units specifically designed for the needs of persons age 55 or older, including independent, Assisted Care Living Quarters and Senior Citizen Congregate Housing.

(2) Prohibitions. This subsection does not permit nursing homes, convalescent homes, private proprietary homes, homes for the aged or any other facilities regulated and licensed by the Department of Health under the Public Health Law of the State of New York, except for Assisted Care Living Quarters and Senior Citizen Congregate Housing.

(3) Annual report. The applicant and/or owners of a development under this subsection shall file with the Town Zoning Administrator, before the first Monday in December of each year of operation, a form affidavit supplied by the Town Zoning Administrator, for compliance with all provisions of subsections (4) and (8) and any State or Federal filing requirement, if any. Any

delay in filing of such form affidavit shall constitute a violation of this special permit, and further any real estate tax abatement provided under this subsection shall immediately cease.

(4) Tax abatements/payment in lieu of taxes (PILOT).

(a) Any tax abatement/PILOT afforded under this subsection shall be for the purpose of reducing rent payments for housing for Eligible Senior Citizens.

(b) To continue the eligibility for tax abatement/PILOT under this subsection, prior to renting any facility, the applicant, sponsor and/or owners of any development under this subsection shall contact the Town of Clarkstown or their designated qualified agency for a current list of names and addresses of Eligible Senior Citizens desiring housing for the elderly and give these Eligible Senior Citizens priority in the rental of these facilities according to the length of years of residency in Clarkstown.

(c) Anything to the contrary notwithstanding hereinabove, eligibility for any housing provided shall be pursuant to the regulations of the United States Department of Housing and Urban Development in the event that financing is obtained pursuant to those programs, or other applicable federal, state and local government programs.

(5) Construction requirements. All building and dwelling units constructed under this subsection shall be constructed in accordance with the New York State Building Construction Code and conform to any additional requirements of the state or federal programs providing for housing for the elderly, whichever is applicable, and shall be inspected and approved by the Building Inspector. There shall be no more than 200 dwelling units constructed at any one site.

(6) Community space. In order to qualify under this subsection, the applicant or sponsor of housing for the elderly shall provide a community space at least equal to 10% of the floor area of each building, including lounges, workshops, game rooms and other designed facilities for the elderly, except space for medical facilities or dispensaries.

(7) Permitted general accessory uses.

(a) Cafeterias or dining halls.

(b) A medical dispensary.

(c) Storage or tool sheds.

(8) Rental Requirement, Tenant Priority and Availability.

(a) Every unit shall be a rental unit. The sale of any individual unit shall be strictly prohibited.

(b) At least 10% of all the units shall be Affordable Units.

(c) To qualify for an Affordable Unit under this subsection, prior to renting any facility, the applicant, sponsor and/or owners of any development under this subsection shall contact the Town of Clarkstown or their designated qualified agency for a current list of names and addresses of Eligible Senior Citizens desiring housing for the elderly and give these Eligible Senior Citizens priority in the rental of these facilities according to the length of years of residency in Clarkstown.

(d) Affordable Units shall be indistinguishable in character and construction from other units with regard to size, standard fixtures and appliances, and amenities, and have the same rights and responsibilities of any other unit in the development, excepting the specific provisions of this section. The ratio of studio apartments and one-bedroom and two-bedroom Affordable Units shall be equal to the ratio for market-rate units.

(e) Every renter of an Affordable Unit shall certify, on a form prescribed by the Town Attorney's Office, that such unit is the primary place of residence. Renters of Affordable Units shall not be permitted to sublet said units to other parties, this being enforced by a lease restriction. No property owner shall rent any Affordable Unit without first obtaining such verified certificate from the renter.

(f) The landowner and developer shall file a declaration with the Rockland County Clerk at the time of site plan approval identifying the units which are Affordable Units, and restricting their future rental price under the provisions of this section. The declaration shall include a provision requiring that every lease for an Affordable Unit shall include the following paragraph to inform all future sellers and buyers or renters that these units are Affordable Units subject to the provisions of this section:

"This dwelling unit is for use by income eligible families pursuant to a special program under the Town of Clarkstown Zoning Local Law. Its future rent must be to persons who qualify with the income requirements and at a price in accordance with the program at the time of execution of the lease or any renewal thereof, to be verified by the qualified agency referred to in (8)(g). The Town of Clarkstown shall have the right to approve or disapprove the subsequent rental of this unit based upon the income of the proposed renter and the requirements of (8)(c)."

(g) The Planning Board shall, as a condition to approval of an application, require the applicant to contract with a qualified agency as designated by the Town Board to administer and oversee the rental of Affordable Units.

(9) Minimum accessory off-street loading berths (subject to Article VI).

(a) Open loading berths are permitted, provided that they are not located in the required side yards and are not adjacent to a residential district or residential use permitted by right. No loading area shall be permitted to locate within 50 feet of any property line, and this setback shall be screened.

(b) Completely enclosed loading berths are permitted in all yard areas except the front yard; however, no loading berth, loading area or driveway shall be located within 25 feet of any property line.

(c) All loading berths, loading areas and driveways shall be illuminated with indirect lighting and shall have access only from a major or secondary road as classified on the Official Map of the Town of Clarkstown.

(10) Required off-street parking (subject to Article VI).

Senior Citizen Housing and Congregate Housing	Parking Space
Studio Apartment	1.0
One-bedroom	1.0
Two-bedroom	1.5
Superintendent	2.0
Assisted Care Living Quarters	Parking Space
Per bed	0.55

(11) Additional regulations.

(a) No trucking shall be permitted into a site from a collector or local street. No shipping or receiving of goods shall be permitted between the hours of 11:00 p.m. and 7:00 a.m., nor on Sunday.

(b) Minimum lot area shall be 180,000 square feet. Assemblage of properties or parcels not in the same ownership at the time of adoption of this section so as to meet minimum lot area requirements is prohibited.

(c) Minimum front lot line shall be 300 feet along a major, secondary or collector road.

(d) Access roads.

[1] Ingress and egress roads shall be from a major, secondary or collector road. A variance from this provision shall be deemed a use variance.

[2] No roads or driveways shall be located within 100 feet of any street intersection.

(e) Floor area ratio shall be fifty hundredths (0.50).

(f) Maximum lot coverage shall be 0.65.

(g) Maximum density permitted shall be 20 dwelling units per acre for developments constructed and maintained on a nonprofit or limited profit basis by an organization or its wholly owned subsidiary incorporated pursuant to the provisions of the laws of the State of New York or 16 dwelling units per acre for any for-profit developments. A variance from this provision shall be deemed a use variance.

(h) No more than 50% of the units shall be two bedrooms. No units shall be more than 2 bedrooms with the exception of one superintendent's apartment per complex which shall consist of no more than three bedrooms.

(i) Yard requirements.

	Road Classification		
	Major (feet)	Secondary (feet)	Collector/Local (feet)
Front yard	100	75	50

Yards adjacent to a district line or use permitted by right or special permit.

	District Classification		
	Residential (feet)	Commercial (feet)	Industrial (feet)
Side yard	50	100	200
Rear yard	100	200	300

(j) Maximum building height shall not exceed 45 feet and shall be no more than three stories aboveground.

(k) Minimum distance between buildings shall be no less than the height of the highest building.

(l) Minimum recreation space shall be 200 square feet per dwelling unit set aside for active recreational uses for the senior citizens.

(m) Minimum distance between Senior Citizen Congregate Housing sites shall be not less than 1,500 feet.

(n) Minimum distance between Assisted Care Living Quarters sites shall not be less than 1,500 feet.

(o) The total aggregate number of Senior Citizen Housing units allowable under the Planning Board special permit pursuant to this section shall be no more than 700. The Town Board may, by resolution passed by a super-majority vote after a public hearing, increase the total number of Senior Citizen Housing units. No such increase shall take place until at least one year after the final Planning Board approval of the initial 700 units.

(p) Dwelling units shall be air conditioned with individual thermostatic controls for heating and air conditioning.

(q) All dwelling units shall incorporate design features, to the maximum extent practical, which ensure the safety and convenience of the residents, including, but not limited to, elevators, grab-bars, non-scalding faucets, water-impervious nonslip floors, flush thresholds and wheelchair-accessible doorways.

(r) If pets are permitted, specific pet walking areas designated and located so as to prevent nuisance and annoyance or health hazards to the residents and/or abutting property shall be provided.

(s) Elevators shall be able to accommodate a gurney and emergency crew and be located closest to handicapped-accessible units.

(t) Entrance canopies shall be no lower than 14 feet so as to accommodate buses and emergency vehicles.

(u) All dwelling units shall be designed, constructed and inspected in accordance with New York State Building Code and Chapter 109 of the Town Code.

Amend § 290-170(B). Projects within hamlet centers. as follows:

Change § 290-170(B)(9) Additional requirements. (b) & (f) to read as follows:

(b) All dwelling units shall incorporate design features, to the maximum extent practical, which ensure the safety and convenience of the residents, including, but not limited to, elevators, grab-bars, non-scalding faucets, water-impervious nonslip floors, flush thresholds and wheelchair-accessible doorways.

(f) All dwelling units shall be designed, constructed and inspected in accordance with New York State Building Code and Chapter 109 of the Town Code.

**Section 5. Effective Date.**

This local law shall become effective immediately upon filing with the Secretary of State.