

Paul Beyer, Director of Smart Growth
Governor's Smart Growth Cabinet
Albany, NY

RETIREMENT HOUSING ZONING

Description:

Localities can use several zoning tools/methods to achieve a community's goal of creating various housing alternatives for older people—both affordable and market-rate units. For example, tools such as Planned Unit Developments, variances, special use permits, a senior housing (golden zoning) district, a senior overlay zone, or a floating senior district can be used to allow/promote single-family homes for people over a specified age, a variety of multi-unit senior housing models, accessory apartments, elder cottages in either single locations or in a cluster, grandfamilies housing (for grandparents raising grandchildren), assisted living facilities, shared living residences, and shared apartments.

Retirement Zoning District: A locality can set aside specific areas as “retirement community districts” in their zoning ordinances. These districts (base zone, overlay zone, or floating zone) are also known as golden zones, senior housing districts, and housing for the elderly district; and the ordinance typically restricts tenancy to residents (or the householders) who are aged 55, 60, 62, or 65 and older.

Using a floating zone for senior housing development provides municipalities with flexibility in establishing the location of this particular type of use. The standards and allowable uses for a floating zone are defined in the zoning regulations, but the location of the district is not mapped; instead, it “floats” until a proposal is made for the development of a specific parcel of land and the project is determined to be in accordance with all the applicable floating zone standards. At that point, the floating zone is attached to the particular parcel(s) on the zoning map.¹

Retirement community districts often allow greater density to accommodate multi-unit dwellings, and they may include smaller homes on smaller lots to accommodate both affordability issues and frailties that may occur during the elder years, and to encourage the benefits of socialization. Well-planned retirement districts are located closer to important amenities, such as health care, social services, retail stores, public spaces and buildings, and other amenities, as well as transit options to support both walkability and the need for accessible transportation. Within a retirement district boundary, the site should provide ample open space for safe and convenient recreational and social facilities, such as walking paths and community rooms. Residential units and community buildings should be designed and constructed using universal design and visitability principles (see Walkability and Visitability in the Resource Manual), which supports successful aging-in-place, as well as easy access for those residents and visitors who have mobility impairments.

Reference:

¹ *Local Government Handbook*, p. 152. Albany, NY: New York State Department of State.

Benefits:

- Well-planned and well-zoned retirement districts are an effective strategy to support successful aging in place, by providing older adults with an opportunity to socialize with contemporaries, interact with community members of all ages in the surrounding residential neighborhood, and have easy access to social and other amenities that are necessary for carrying out routine activities and tasks of daily life.
- Availability of a variety of housing types for older adults, as well as the flexibility of various allowable site locations, is a substantial support for caregivers of older relatives—reducing caregivers' transportation burdens, reducing time commitments involved in providing help with activities of daily living, reducing financial expenses associated with caring for an elderly relative, reducing lost employment hours, and reducing the amount of time caregivers must spend away from their responsibilities to their immediate families.
- Well-planned and well-zoned retirement districts encourage developers to site senior housing in locations that are appropriate for the well-being of older adults, countering common inclinations to locate senior housing and other facilities (such as senior service centers, adult day programs, assisted living facilities, and health centers) on the outskirts of town, far from neighborhoods, activities, and amenities.
- Retirement district projects can be sited to lessen environmental impacts by clustering units, which use less land and require less infrastructure.

Impediments or barriers to development or implementation:

- Many existing local zoning codes do not accommodate or favor the type of compact, mixed-use development that is characteristic of a well-planned retirement district.
- Land for senior housing and related amenities is often cheaper on the municipal fringe, providing a financial incentive to choose these sites over more appropriate sites.
- Because a floating retirement district zone is not part of the zoning map until a particular proposal is approved, establishing its boundaries on the zoning map requires an amendment to the zoning law or ordinance, for which all proper procedures must be met.
- Without carefully establishing, through comprehensive planning or a similar process, the rationale behind the ultimate location of a floating zone, neighbors may accuse the municipality of spot zoning—using the zoning regulations to benefit one or a few land owners by zoning their property differently from those

surrounding them. Theoretically, an area could have several floating zones, which may also raise the concern of spot-zoning.

Resource—statutory authority:

- Floating zones are not treated specifically in enabling statutes, but are considered lawful within the general statutory grants of zoning power.

Resource—examples and ordinances:

- *Golden Age Housing*: Town of Oyster Bay, Long Island, NY (The "RSC-25" Residence Senior Citizen District (previously known as "S-2") allows for higher density development—25 units to the acre—which helps keep down the price. Since the program was adopted, more than 1,400 units of affordable senior housing units have been approved in the Town.
http://www.oysterbaytown.com/index.asp?Type=B_BASIC&SEC=%7B11668C1C-ED2F-40D5-A2D8-6C8867D63946%7D&DE=%7B57BB3CC2-4C6B-4E6A-A752-ED113DEB569E%7D.
- Town of North Castle, NY, Westchester County, local law filing: to amend Article III, Section 213-4 (enumeration of districts) of the Code of the Town of North Castle, NY, so as to add a proposed new R-MF-SCH multi-family senior citizen housing district to the current list of districts:
<http://www.northcastleny.com/planning/Local%20Laws%2012-11-06/Local%20Law%20A-3.pdf>.
- Long Island, NY: Golden Age Zoning Districts:
 - Town of Southampton
 - Town of Hempstead
 - Village of Massapequa (Local Law No. 4 of 1998)
 - Town of Brookhaven
- Town of Clarkstown, NY, Rockland County:
 - Active Adult Residence floating zone.
- Town of Fishkill, NY, Dutchess County:
 - Senior Citizen Housing floating zone
 - Senior Citizen Housing District overlay zone
- Falmouth Town Council, Falmouth, ME, "Retirement Community Overlay District" (Section 3.16, adopted November 23, 1998; amended May 30, 2012), *Town of Falmouth Zoning and Site Plan Review Ordinance, amended May 30, 2012*:
http://www.town.falmouth.me.us/Pages/FalmouthME_Admin/docs/ZSPRO_0530_2012.pdf.
- Patricia E. Salkin (March 8, 2002), *Considerations in Land Use Planning and Zoning for the Aging Baby-Boomers*. Albany, NY: Albany Law School, Government Law Center. Presentation at Rocky Mountain Land Use Institute Sturm College of Law, University of Denver, Denver CO. Discussion of topics for consideration when planning for housing for older adults, including various

zoning tools communities can use to effectively provide appropriate senior housing alternatives, including the use of Planned Unit Developments, special use permits, variances, floating senior housing zone (example: Town of North Greenbush, NY), and senior/retirement housing zones (examples: Town of Warwick, NY; Village of Massapequa Park, NY; and Town of Huntington, NY).

- River Street Planning and Development (August, 2009), *Integrated Housing Needs and Opportunities Study: Otsego County New York*. Cooperstown, NY: Otsego County Planning Department and Ad Hoc Advisory Committee. Pages 96-98 of the Report describes: Strategy 1: Identify specific subsidized or market rate senior housing developments that will assist the senior population in Otsego County. Under Strategy 1: Action 1.1—Work with local municipalities on their land use regulations to allow various housing development for seniors, including rezoning to allow senior housing, senior housing zoning districts, overlay district for senior housing, senior housing in a planned unit development; Action 1.2—Accessory Apartments; Action 1.3—Elder Cottages; Action 2.1—allow seniors to age in place.

Resource—written and web:

- Patricia E. Salkin (Fall, 2003), "Zoning and Land Use Planning: Where Will the Baby Boomers Go? Planning and Zoning for an Aging Population," *Real Estate Law Journal*, Vol. 32. Also available online—Albany, NY: Albany Law School, Government Law Center:
http://www.governmentlaw.org/files/planning_zoning_for_aging.pdf.
- John Nolan (2001), *Well Grounded: Using Local Land Use Authority to Achieve Smart Growth*. Washington, DC: Island Press.
 - Chapter 6—Balancing Development and Conservation":
 - Pages 207-232:
 - Section A: Overlay Zoning.
 - Section B: Floating Zones.
 - Section C: Cluster Development.
 - Section D: Planned Unit Developments.
 - Pages 249-254:
 - Section H: Senior Citizen Housing Zoning.
- Patricia Salkin (December, 2004), *Current Trends and Practical Strategies in Land Use Law and Zoning*. Chicago, IL: American Bar Association.