



TOWN OF GREENBURGH

OFFICE OF THE TOWN BOARD

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April 10, 2026

Ms. Claudia Zuck
General Code Publishers
781 Elmgrove Road
Rochester, NY 14624

Re: Local Law # 2 - 2026

Dear Ms. Zuck:

Enclosed please find one copy of Local Law No. 2 - 2026 of the Town of Greenburgh. This Local Law is amending several sections of Chapter 285 and a section of Chapter 250 of the Code of the Town of Greenburgh, related to a new use (Accessory Dwelling Units), pursuant to New York State Constitution Article IX and New York Municipal Home Rule Law Section 10, New York Environmental Conservation Law Article 8 (SEQR).

The Town Board duly adopted said Local Law No. 2 on April 8, 2026.

Sincerely,

Holly Cancro
Town Council Aide

Encl.

cc: Joseph Danko, Town Attorney



TOWN of GREENBURGH

Local Law No. 2 /2026

A local law amending Section 285-5 of the Code of the Town of Greenburgh entitled, "Definitions;" Section 285-36 entitled, "Supplementary use regulations;" Section 285-38 entitled, "Off-street parking, loading, and landscaping requirements," and Section 285-39 entitled, "Lot and Bulk Requirements," Section 285-56 entitled, "Exemptions," and Section 250-19 entitled, "Parks; open space; natural features," pursuant to New York State Constitution Article IX and New York Municipal Home Rule Law Section 10, New York Environmental Conservation Law Article 8 (SEQR).

BE IT ENACTED by the Town Board of the Town of Greenburgh:

- § 1. Title.**
- § 2. Legislative Findings and Intent.**
- § 3. Amendment to § 250-19. Parks; open space; natural features.**
- § 4. Amendment to § 285-5. Definitions**
- § 5. Amendment to § 285-10. R-40 One-Family Residence District**
- § 6. Amendment to § 285-36. Supplementary use regulations**
- § 7. Amendment to § 285-38. Off-street parking, loading, and landscaping requirements**
- § 8. Amendment to § 285-39. Lot and bulk requirements**
- § 9. Amendment to § 285-56. Exemptions.**
- § 10. Supersession.**
- § 11. Severability.**
- § 12. Effective Date.**

§ 1. Title.

This local law is entitled "Accessory Dwelling Units," and amends Section 250-19 of the Code of the Town of Greenburgh, entitled "Parks; open space; natural features; 285-5, entitled "Definitions;" Section 285-10, entitled "One-Family Residence District;" Section 285-36, entitled "Supplementary use regulations;" Section 285-38, entitled "Off-street parking, loading, and landscaping requirements;" and Section 285-39, entitled "Lot and bulk requirements."

§ 2. Legislative Findings and Intent.

The Town Board of the Town of Greenburgh finds it in the best interest of the Town to allow accessory dwelling units in one-family residential districts to provide the opportunity and encouragement for development of housing units designed to meet housing needs that include, but are not limited to, single persons, couples, other

small households, relatives of existing families within the Town, the young, the elderly, and persons seeking more affordable options. This provision will allow for the more efficient use of the Town's existing stock of dwellings and accessory buildings, create diversity in the housing stock with minimal increase in building density, provide additional housing opportunities, provide support to existing residents, and better facilitate aging in place.

§ 3. Amendments to Section 250-19 Parks; open space; natural features.

Section 250-19 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

A. Recreation and open space.

- (1) In order to provide ~~adequately~~ for the comfort, convenience, safety, health and welfare of the residents of the Town, it is necessary to establish recreational and open space areas for ~~the~~ public use. The Planning Board has set a standard that will provide for the eventual development of an adequate system of play lots, playgrounds, neighborhood parks, playfields and large parks or open space for the residents of the Town.
- (2) The prospective subdivider or residential site plan developer, or applicant who receives a use variance for multiple dwelling units, shall provide recreational land, within the subdivision or residential development site, of suitable size and topography and suitably located. Alternatively, land and/or improvements may be provided off site at another location mutually agreeable to the developer and the Town. The amount of land and/or improvements shall be equal in value to money offered in lieu thereof and in accordance with the schedule set forth herein. Any offer of land and/or money by the prospective subdivider or residential site plan developer shall be made by written communication to the Board. In the event that money is offered, it shall be based on the standard of \$8,640 per subdivided one-family building lot. The standard for each newly approved Accessory Dwelling Unit by special permit shall be \$2,160. Subdivided lots containing an existing one-family dwelling, with a valid certificate of occupancy dated prior to the instant application, shall be excluded from the lot count for the purposes of computing the amount of money in lieu of land. The provision of recreational land shall also apply to planned unit development and residential site plan developments, except that money in lieu of land for these developments shall be based on the standard of \$4,320 per dwelling unit when units are offered for sale or when shares of a corporate ownership are sold resulting in a space lease and \$2,160 per dwelling unit when units are offered for rent and are deed restricted as rentals for a minimum of 20 years. If at any time during the twenty-year period, units are converted to

nonrental status, an additional \$2,160 per unit shall be paid to the Town prior to conversion. Developers providing affordable housing, as defined by the Town Board in the Town Zoning Ordinance Code, Chapter 285, or as modified by the Town Board, under special circumstances, may receive waivers of up to 100% of the recreation land or fee in lieu thereof. Special circumstances that the Town Board may consider will include but not be limited to housing for handicapped persons with disabilities or infirm persons, housing meeting the needs of persons of moderate income other than the United States Department of Housing and Urban Development's definition of low- and moderate-income households and/or housing for special target groups, such as ~~teachers or~~ public employees. Housing for senior citizens, aged 60 or over, that does not qualify as affordable housing may nonetheless be eligible for a reduction in the recreational land or fee in lieu thereof to a minimum of \$2,160 per unit upon special request to the Town Board and upon supplying any and all documentation said Board requires. This section shall apply to subdivision applications submitted after January 1, 1995.

§ 4. Amendments to Section 285-5 Definition

Section 285-5 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

285-5 Definitions.

DWELLING UNIT, ACCESSORY (ADU)

An accessory dwelling unit (ADU) is a dwelling unit in a separate unit incidental and subordinate to a permitted principal one-family residence use, either of which must be continuously owner-occupied, and is located on the same lot. ADUs are independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. ADUs may be located within the principal one-family residence or in a detached structure. A building which is occupied as the residence of a single family, together with any legal accessory dwelling unit and the lot upon which they are located shall continue to be deemed a one-family dwelling.

DWELLING UNIT

One or more rooms with provisions for living, cooking, sanitary and sleeping facilities arranged for the use of one family. (NOTE: The terms "dwelling," "one-family dwelling," "two-family dwelling," "multifamily dwelling," ~~or~~ "dwelling unit," and "dwelling unit, accessory," shall not be deemed to include a hotel, motel, automobile court, tourist home, furnished rooming house, dormitory, boarding home, convalescent home, rest home, nursing home or other accommodation used for transient occupancy.)

ADULT

A person who is 18 years of age or older.

GARAGE, PRIVATE

An accessory building, or part of a main or principal building, used ~~only~~ for the permitted storage of motor vehicles as an accessory use for the occupant's private use and for other permitted residential accessory uses.

LIVING SPACE

Space within a dwelling unit utilized for living, sleeping, eating, cooking and bathing.

§ 5. Amendments to Section 285-10. One-Family Residence District

Section 285-10 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

A. Permitted uses. No building or premises shall be used, and no building shall be erected, altered or added to unless otherwise provided in this chapter, except for the following uses:

(1) Principal uses.

(a) One-family detached dwellings not to exceed one dwelling per lot, except as permitted pursuant to Section 285-36Q.

§ 6. Amendments to Section 285-36: Supplementary use regulations.

Section 285-36 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

Q. Accessory Dwelling Units. ADUs shall be permitted upon issuance of a special permit by the Planning Board and only in the following districts: R-5, R-7.5, R-10, R-15, R-20, R-30, R-40, and PUD. ADUs shall additionally be permitted upon the issuance of a special permit by the Planning Board in connection with new subdivision and site plan applications filed after the effective date of this local law approval. ADUs shall exhibit conformance with the following criteria:

(1) Number of units.

(a) There shall be no more than one ADU per buildable lot, which may be located within the principal one-family

residence or in a detached structure. An ADU shall not be permitted on a buildable lot that contains an existing two-family residence or greater, unless approved in connection with a Planned Unit Development.

- (b) Any new residential subdivision or site plan before the Planning Board shall be permitted to concurrently apply for a special permit to incorporate ADUs. The density permitted for ADUs associated with a new residential subdivision or site plan shall not exceed 20% of the total one-family residential unit count, or 20 ADUs, whichever is less. The additionally permitted ADUs, if approved, shall not contribute to the maximum overall cap of ADUs established pursuant to Section 285-36Q(15).
- (2) Lot size. When the ADU is proposed in a new detached structure which would be in addition to the principal detached one-family residence, the minimum lot size shall be 20,000 sq. ft. When an ADU is proposed as an expansion of an existing dwelling, the minimum lot size shall be 10,000 sq. ft. When an ADU is proposed within the existing dwelling and there is no proposed expansion to the first-floor footprint of the existing residence, or an ADU is proposed within a lawfully existing accessory structure to be converted to an ADU where no expansion is proposed to the accessory structure, the minimum lot size shall be 7,500 sq. ft. ADUs are not permitted on lots less than 7,500 sq. ft.
- (3) ADU size.

 - (a) Accessory dwelling units located within, or as an expansion of, an existing dwelling shall be no less than a gross floor area of 400 sq. ft. and be no more than a gross floor area of 800 sq. ft.
 - (b) For ADUs contained within the existing principal dwelling, the maximum gross floor area can only exceed 800 sq. ft. when it does not exceed 30% of the gross floor area of the principal dwelling unit, and when there is no proposed expansion to the footprint of the existing principal dwelling.
 - (c) The maximum gross floor area shall not exceed 800 sq. ft. for ADUs contained within a detached structure. The maximum height of an ADU located within a detached accessory structure shall be 12 ft. Following receipt of a written recommendation from the Commissioner of the Department of Community Development and Conservation,

the Planning Board may in its discretion grant a waiver of this height requirement if a lawfully existing accessory structure with a height in excess of 12 ft. is proposed to be converted to an ADU and said waiver shall not detrimentally impact the abutting property owner(s).

- (4) Zoning conformance. The property and principal and accessory structures thereon shall conform to the lot area, yard and other requirements for the zoning district in which the property and structures are located. The ADU must be included in all gross floor area calculations. An ADU proposed in the R-5 Zoning District must be on a lot size of 7,500 sq. ft. or greater and must conform to the related setback, frontage, impervious coverage and related lot and bulk criteria of the R-7.5 District. Following receipt of a written recommendation from the Commissioner of the Department of Community Development and Conservation, the Planning Board may in its discretion grant a waiver of setback requirements, if a lawfully existing accessory structure is proposed to be converted to an ADU and said waiver shall not detrimentally impact the abutting property owner(s).
- (5) Location on the lot and aesthetic considerations. ADUs shall be located, designed (including off-street parking layouts), constructed, and landscaped to be architecturally compatible, to the maximum extent feasible, as determined by the Planning Board, with the appearance of the principal building. ADU's proposed in a new detached structure must be located in the rear yard.
- (6) Access. An ADU located within the principal structure must have a direct ingress and egress access to the outside. The ADU may have a separating door or doors between it and the primary principal structure, provided that the door is independently lockable from both sides, unless such requirement is agreed upon to be waived and authorized by written affidavit in connection with an ADU being occupied by a family member. Principal structures proposed to contain an ADU shall not incorporate newly proposed additional front entries to the residence, however, where a second front door legally existed at the time of adoption of this Section, it can be used in connection with an ADU upon approval by the Planning Board. All newly built ADU entrances shall be on the side or in the rear of the residence, and shall be designed, to the degree deemed reasonably feasible by the Planning Board, to maintain the exterior appearance of a one-family residence.

- (7) Rental Duration. Property owners shall not lease an ADU for less than a one-year term, and in the event of a breach of the lease or termination prior to one year, the property owner shall not be permitted to assign the remainder of the lease term.
- (8) Off-street parking. At least one off-street parking space shall be provided per accessory unit. All off-street parking spaces shall meet the requirements of Section 285-38, and any other applicable laws, rules and regulations. When an expansion to an off-street parking area is proposed in connection with an ADU, increased driveway widths shall exhibit consistency with the general development patterns in the surrounding neighborhood, with preference given to limiting driveway expansions within a front yard, especially in front of the principal building. In the R-5 Zoning District, for an ADU proposed on a minimum required lot size of 7,500 sq. ft. or greater, driveway setbacks must conform to the related provisions of the R-7.5 District, in addition to exhibiting consistency with the general development patterns in the surrounding neighborhood, with preference given to limiting driveway expansions within a front yard, especially in front of the principal building.
- (9) Owner occupancy required. The owner(s) of the lot upon which the ADU is to be located shall submit a sworn affidavit certifying, under penalty of perjury, that they continuously reside in and occupy one of the dwelling units on said lot. The primary residence, the ADU, and the lot on which it is situated must be held in common ownership at all times.
- (10) Compliance. All ADUs must be in compliance with all applicable laws, rules, regulations and codes, including, but not limited to, building, fire, electrical, health and other applicable safety codes.
- (11) Public Utilities. ADUs shall only be permitted where the subject lot has connections to public water and public sanitary sewer systems.
- (12) Bedrooms and Code Compliance. The ADU shall not have more than two (2) bedrooms. The ADU must include a living space and must comply with the light, ventilation, egress, and occupancy limitation requirements in New York State Code, and any other applicable laws, rules and regulations.
- (13) Occupancy Limitations. ADUs shall comply with the occupancy limitations set forth in the New York State Property Maintenance Code but in no event shall more than two (2) adults

occupy a studio or one (1) bedroom ADU and in no event shall a two (2) bedroom ADU have more than four (4) adult occupants. The owner(s) shall submit a sworn affidavit certifying, under penalty of perjury, that the ADU complies with the occupancy limitations specified herein.

- (14) Transfer of permit with sale of property. The property owner shall be required to provide a copy of the special permit to the purchaser when the parties execute a sales contract for the property. If a property with an ADU is sold, the Special Permit may be transferred to the new owner provided that the purchaser files an ADU renewal application within ninety (90) days following the purchase date. Prior to the transference of the Special Permit, the property and ADU must be inspected and a certificate of compliance must be issued by the Building Department, which shall only be issued if the property and ADU is found compliant with Town and State Codes, and any other applicable laws, rules and regulations. An ADU Special Permit shall expire automatically if the new owner does not apply for an ADU renewal permit within ninety (90) days of the change in ownership. The tenant of an ADU with a lease from the prior property owner shall be permitted to remain until the end of the current lease term not to exceed twelve (12) months. All tenants shall be given a minimum of (90) ninety days notification regarding discontinuance of the special permit by the new owner, if applicable, and discontinuance of the use of the ADU for rental purposes. Said notice provision shall be included in the lease agreement to the tenant.
- (15) Permit Cap. The Town Board, by duly adopted resolution, shall have the ability to institute a cap on the number of complete ADU applications received annually. Complete ADU applications are those that have received an application number from the Department of Community Development and Conservation, following Department review.
- (16) Neighborhood Character. The Planning Board shall have discretion to deny an application where it is determined that an ADU, or multiple nearby ADUs in an area could detrimentally impact the area where any or all of the following exist: (1) lack of available on-street parking; (2) sub-standard street width; (3) lack of appropriate visual screening; or (4) other inadequate site characteristics.
- (17) Construction timeframe. If construction on the ADU does not commence within 12 months of the date of special permit approval and an extension has not been approved by the

Planning Board prior to the expiration date, the special permit shall lapse and a new permit shall be required.

(18) Certifications. For all certifications required by this Section, sworn affidavits must be submitted at the time of application and annually by January 10th to the Building Inspector.

(19) Penalties. Any property owner who violates any provision of this section, or any condition imposed by the Town in connection with an ADU shall be subject to revocation of the ADU Special Permit and subject to a fine of not less than \$1,000.

(20) Submission Requirements:

(a) The application for special permit approval shall include:

[1] a site plan and elevations acceptable to the Planning Board.

[2] a fully dimensioned diagram or floor plan showing planned occupancy or use of all floors, areas, interior and exterior, including areas to be utilized for the proposed ADU, including exits, fire prevention measures, windows, doors, sanitary facilities, utilities, and off-street parking. Following issuance of a special permit for an ADU, Applicant's shall submit a building permit application with plans prepared by a New York State licensed architect or engineer showing compliance with New York State Building Code and Town Code to the Building Department, and any other applicable laws, rules and regulations.

(21) Planning Board ADU special permit procedure. All applications shall follow the special permit procedures identified in Section 285-29.1G.

(22) Sunset Clause. A complete Accessory Dwelling Unit (ADU) application must be filed with the Department of Community Development and Conservation within one (1) year from the date of adoption of this Section, unless this Section is subsequently amended or extended by local law. Applicants who receive approval from the Planning Board for a complete ADU application filed within this one-year period must: obtain all necessary permits from the Building Department; commence construction within six (6) months of the date the Building Permit is issued; and complete construction, including obtaining all required approvals, within one (1) year of the Building Permit issuance date. Extensions of time may be granted at the discretion of the Building Inspector and the Commissioner of Community Development and Conservation upon a showing of good faith efforts to complete the project.

§ 7. Amendments to Section 285-38: Off-street parking, loading, and landscaping requirements.

Section 285-38E of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

Use	Minimum Parking (spaces)
<u>Accessory Dwelling Unit</u>	<u>One off-street parking space shall be provided for each bedroom of the accessory dwelling unit.</u>

§ 8. Amendments to Section 285-39: Lot and bulk requirements.

Section 285-39A of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

A. Minimum dwelling sizes.

~~(1) Supplementary Zoning Map. There is hereby adopted and declared to be a part of this chapter the annexed map entitled "Supplementary Zoning Map Showing Minimum Livable Floor Area Required in Dwellings Within Various Districts," hereinafter referred to as the "Supplementary Zoning Map." Said Supplementary Zoning Map may be amended in the same manner as any other part of this chapter.^[1]~~

~~(2)~~ (1) Application to one-family dwellings. No building permit or certificate of occupancy shall be issued with respect to the construction, alteration or occupancy of any one family dwelling located in a one-family residence district unless such dwelling contains the minimum livable floor area in square feet conforming to the number shown on such Supplementary Zoning Map for the district in which it is situated. No building permit or certificate of occupancy shall be issued with respect to the construction, alteration or occupancy of a one-family dwelling located in any district other than a one-family residence district unless such one-family dwelling contains a minimum livable floor area of 1,050 square feet, with the exception of minimum livable floor areas permitted as part of Accessory Dwelling Units, pursuant to 285-36Q. Such minimum

livable floor area shall include all spaces defined as "floor area, livable" in this chapter.^[2]

- (3) (2) Application to multifamily dwellings and other buildings. No building permit or certificate of occupancy shall be issued with respect to the construction, alteration or occupancy of any multifamily dwelling or any buildings, other than a one-family dwelling, containing a dwelling unit or dwelling units unless the livable floor areas of all dwelling units therein equals or exceeds 600 square feet, except that, in the case of studio apartments, the minimum livable floor area therein shall equal or exceed 450 square feet, or Accessory Dwelling Units, pursuant to 285-36Q which permits 400 sq. ft. units. In computing such livable floor area, the definition defining "floor area, livable" shall be applicable.
- (4) (3) Accessory Dwelling Units. No building permit or certificate of occupancy shall be issued with respect to the construction, alteration or occupancy of any accessory dwelling unit, that does not comply with the provisions of 285-36Q.

§ 9. Amendments to Section 285-56: Exemptions.

Section 285-56 of ARTICLE VIII, Site Plan Approval, of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

§ 285-56 Exemptions.

The provisions of this article shall not apply in any of the following instances:

A. A single one-family dwelling.

B. Accessory Dwelling Units, with the exception of those approved in connection with any new subdivision, subdivision improvement plan, or PUD approval process.

~~B. A single two-family dwelling.~~

C. A single two-family dwelling.

§10. Supersession:

Pursuant to New York Municipal Home Rule Law Section 22, this law is intended to supersede any other inconsistent provision of law.

§ 11. Severability:

If any clause, sentence, paragraph, subdivision, section or part of this law or the application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or its application to the person or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 12. Effective Date:

This law shall take effect immediately upon filing with the Secretary of State.



TOWN of GREENBURGH

Local Law No. 2 /2026

A local law amending Section 285-5 of the Code of the Town of Greenburgh entitled, "Definitions;" Section 285-36 entitled, "Supplementary use regulations;" Section 285-38 entitled, "Off-street parking, loading, and landscaping requirements," and Section 285-39 entitled, "Lot and Bulk Requirements," Section 285-56 entitled, "Exemptions," and Section 250-19 entitled, "Parks; open space; natural features," pursuant to New York State Constitution Article IX and New York Municipal Home Rule Law Section 10, New York Environmental Conservation Law Article 8 (SEQR).

BE IT ENACTED by the Town Board of the Town of Greenburgh:

- § 1. Title.**
- § 2. Legislative Findings and Intent.**
- § 3. Amendment to § 250-19. Parks; open space; natural features.**
- § 4. Amendment to § 285-5. Definitions**
- § 5. Amendment to § 285-10. R-40 One-Family Residence District**
- § 6. Amendment to § 285-36. Supplementary use regulations**
- § 7. Amendment to § 285-38. Off-street parking, loading, and landscaping requirements**
- § 8. Amendment to § 285-39. Lot and bulk requirements**
- § 9. Amendment to § 285-56. Exemptions.**
- § 10. Supersession.**
- § 11. Severability.**
- § 12. Effective Date.**

§ 1. Title.

This local law is entitled "Accessory Dwelling Units," and amends Section 250-19 of the Code of the Town of Greenburgh, entitled "Parks; open space; natural features; 285-5, entitled "Definitions;" Section 285-10, entitled "One-Family Residence District;" Section 285-36, entitled "Supplementary use regulations;" Section 285-38, entitled "Off-street parking, loading, and landscaping requirements;" and Section 285-39, entitled "Lot and bulk requirements."

§ 2. Legislative Findings and Intent.

The Town Board of the Town of Greenburgh finds it in the best interest of the Town to allow accessory dwelling units in one-family residential districts to provide the opportunity and encouragement for development of housing units designed to meet housing needs that include, but are not limited to, single persons, couples, other

small households, relatives of existing families within the Town, the young, the elderly, and persons seeking more affordable options. This provision will allow for the more efficient use of the Town's existing stock of dwellings and accessory buildings, create diversity in the housing stock with minimal increase in building density, provide additional housing opportunities, provide support to existing residents, and better facilitate aging in place.

§ 3. Amendments to Section 250-19 Parks; open space; natural features.

Section 250-19 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

A. Recreation and open space.

- (1) In order to provide for the comfort, convenience, safety, health and welfare of the residents of the Town, it is necessary to establish recreational and open space areas for public use. The Planning Board has set a standard that will provide for the eventual development of an adequate system of play lots, playgrounds, neighborhood parks, playfields and large parks or open space for the residents of the Town.
- (2) The prospective subdivider or residential site plan developer, or applicant who receives a use variance for multiple dwelling units, shall provide recreational land, within the subdivision or residential development site, of suitable size and topography and suitably located. Alternatively, land and/or improvements may be provided off site at another location mutually agreeable to the developer and the Town. The amount of land and/or improvements shall be equal in value to money offered in lieu thereof and in accordance with the schedule set forth herein. Any offer of land and/or money by the prospective subdivider or residential site plan developer shall be made by written communication to the Board. In the event that money is offered, it shall be based on the standard of \$8,640 per subdivided one-family building lot. The standard for each newly approved Accessory Dwelling Unit by special permit shall be \$2,160. Subdivided lots containing an existing one-family dwelling, with a valid certificate of occupancy dated prior to the instant application, shall be excluded from the lot count for the purposes of computing the amount of money in lieu of land. The provision of recreational land shall also apply to planned unit development and residential site plan developments, except that money in lieu of land for these developments shall be based on the standard of \$4,320 per dwelling unit when units are offered for sale or when shares of a corporate ownership are sold resulting in a space lease and \$2,160 per dwelling unit when units are offered for rent and are deed restricted as rentals for a minimum of 20 years. If at any time during the twenty-year period, units are converted to

nonrental status, an additional \$2,160 per unit shall be paid to the Town prior to conversion. Developers providing affordable housing, as defined in the Zoning Ordinance, Chapter 285, under special circumstances, may receive waivers of up to 100% of the recreation land or fee in lieu thereof. Special circumstances that the Town Board may consider will include but not be limited to housing for persons with disabilities or infirm persons, housing meeting the needs of persons of moderate income other than the United States Department of Housing and Urban Development's definition of low- and moderate-income households and/or housing for special target groups, such as public employees. Housing for senior citizens, aged 60 or over, that does not qualify as affordable housing may nonetheless be eligible for a reduction in the recreational land or fee in lieu thereof to a minimum of \$2,160 per unit upon special request to the Town Board and upon supplying any and all documentation said Board requires. This section shall apply to subdivision applications submitted after January 1, 1995.

§ 4. Amendments to Section 285-5 Definition

Section 285-5 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

285-5 Definitions.

DWELLING UNIT, ACCESSORY (ADU)

An accessory dwelling unit (ADU) is a dwelling unit in a separate unit incidental and subordinate to a permitted principal one-family residence use, either of which must be continuously owner-occupied, and is located on the same lot. ADUs are independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. ADUs may be located within the principal one-family residence or in a detached structure. A building which is occupied as the residence of a single family, together with any legal accessory dwelling unit and the lot upon which they are located shall continue to be deemed a one-family dwelling.

DWELLING UNIT

One or more rooms with provisions for living, cooking, sanitary and sleeping facilities arranged for the use of one family. (NOTE: The terms "dwelling," "one-family dwelling," "two-family dwelling," "multifamily dwelling," "dwelling unit," and "dwelling unit, accessory," shall not be deemed to include a hotel, motel, automobile court, tourist home, furnished rooming house, dormitory, boarding home, convalescent home, rest home, nursing home or other accommodation used for transient occupancy.)

ADULT

A person who is 18 years of age or older.

GARAGE, PRIVATE

An accessory building, or part of a main or principal building, used ~~only~~ for the permitted storage of motor vehicles as an accessory use for the occupant's private use and for other permitted residential accessory uses.

LIVING SPACE

Space within a dwelling unit utilized for living, sleeping, eating, cooking and bathing.

§ 5. Amendments to Section 285-10. One-Family Residence District

Section 285-10 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

A. Permitted uses. No building or premises shall be used, and no building shall be erected, altered or added to unless otherwise provided in this chapter, except for the following uses:

(1) Principal uses.

(a) One-family detached dwellings not to exceed one dwelling per lot, except as permitted pursuant to Section 285-36Q.

§ 6. Amendments to Section 285-36: Supplementary use regulations.

Section 285-36 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

Q. Accessory Dwelling Units. ADUs shall be permitted upon issuance of a special permit by the Planning Board and only in the following districts: R-5, R-7.5, R-10, R-15, R-20, R-30, R-40, and PUD. ADUs shall additionally be permitted upon the issuance of a special permit by the Planning Board in connection with new subdivision and site plan applications filed after the effective date of this local law approval. ADUs shall exhibit conformance with the following criteria:

(1) Number of units.

(a) There shall be no more than one ADU per buildable lot, which may be located within the principal one-family

residence or in a detached structure. An ADU shall not be permitted on a buildable lot that contains an existing two-family residence or greater, unless approved in connection with a Planned Unit Development.

- (b) Any new residential subdivision or site plan before the Planning Board shall be permitted to concurrently apply for a special permit to incorporate ADUs. The density permitted for ADUs associated with a new residential subdivision or site plan shall not exceed 20% of the total one-family residential unit count, or 20 ADUs, whichever is less. The additionally permitted ADUs, if approved, shall not contribute to the maximum overall cap of ADUs established pursuant to Section 285-36Q(15).
- (2) Lot size. When the ADU is proposed in a new detached structure which would be in addition to the principal detached one-family residence, the minimum lot size shall be 20,000 sq. ft. When an ADU is proposed as an expansion of an existing dwelling, the minimum lot size shall be 10,000 sq. ft. When an ADU is proposed within the existing dwelling and there is no proposed expansion to the first-floor footprint of the existing residence, or an ADU is proposed within a lawfully existing accessory structure to be converted to an ADU where no expansion is proposed to the accessory structure, the minimum lot size shall be 7,500 sq. ft. ADUs are not permitted on lots less than 7,500 sq. ft.
- (3) ADU size.
- (a) Accessory dwelling units located within, or as an expansion of, an existing dwelling shall be no less than a gross floor area of 400 sq. ft. and be no more than a gross floor area of 800 sq. ft.
 - (b) For ADUs contained within the existing principal dwelling, the maximum gross floor area can only exceed 800 sq. ft. when it does not exceed 30% of the gross floor area of the principal dwelling unit, and when there is no proposed expansion to the footprint of the existing principal dwelling.
 - (c) The maximum gross floor area shall not exceed 800 sq. ft. for ADUs contained within a detached structure. The maximum height of an ADU located within a detached accessory structure shall be 12 ft. Following receipt of a written recommendation from the Commissioner of the Department of Community Development and Conservation, the Planning Board may in its discretion grant a waiver of

this height requirement if a lawfully existing accessory structure with a height in excess of 12 ft. is proposed to be converted to an ADU and said waiver shall not detrimentally impact the abutting property owner(s).

- (4) Zoning conformance. The property and principal and accessory structures thereon shall conform to the lot area, yard and other requirements for the zoning district in which the property and structures are located. The ADU must be included in all gross floor area calculations. An ADU proposed in the R-5 Zoning District must be on a lot size of 7,500 sq. ft. or greater and must conform to the related setback, frontage, impervious coverage and related lot and bulk criteria of the R-7.5 District. Following receipt of a written recommendation from the Commissioner of the Department of Community Development and Conservation, the Planning Board may in its discretion grant a waiver of setback requirements, if a lawfully existing accessory structure is proposed to be converted to an ADU and said waiver shall not detrimentally impact the abutting property owner(s).
- (5) Location on the lot and aesthetic considerations. ADUs shall be located, designed (including off-street parking layouts), constructed, and landscaped to be architecturally compatible, to the maximum extent feasible, as determined by the Planning Board, with the appearance of the principal building. ADU's proposed in a new detached structure must be located in the rear yard.
- (6) Access. An ADU located within the principal structure must have a direct ingress and egress access to the outside. The ADU may have a separating door or doors between it and the primary principal structure, provided that the door is independently lockable from both sides, unless such requirement is agreed upon to be waived and authorized by written affidavit in connection with an ADU being occupied by a family member. Principal structures proposed to contain an ADU shall not incorporate newly proposed additional front entries to the residence, however, where a second front door legally existed at the time of adoption of this Section, it can be used in connection with an ADU upon approval by the Planning Board. All newly built ADU entrances shall be on the side or in the rear of the residence, and shall be designed, to the degree deemed reasonably feasible by the Planning Board, to maintain the exterior appearance of a one-family residence.
- (7) Rental Duration. Property owners shall not lease an ADU for less than a one-year term, and in the event of a breach of the

lease or termination prior to one year, the property owner shall not be permitted to assign the remainder of the lease term.

- (8) Off-street parking. At least one off-street parking space shall be provided per accessory unit. All off-street parking spaces shall meet the requirements of Section 285-38, and any other applicable laws, rules and regulations. When an expansion to an off-street parking area is proposed in connection with an ADU, increased driveway widths shall exhibit consistency with the general development patterns in the surrounding neighborhood, with preference given to limiting driveway expansions within a front yard, especially in front of the principal building. In the R-5 Zoning District, for an ADU proposed on a minimum required lot size of 7,500 sq. ft. or greater, driveway setbacks must conform to the related provisions of the R-7.5 District, in addition to exhibiting consistency with the general development patterns in the surrounding neighborhood, with preference given to limiting driveway expansions within a front yard, especially in front of the principal building.
- (9) Owner occupancy required. The owner(s) of the lot upon which the ADU is to be located shall submit a sworn affidavit certifying, under penalty of perjury, that they continuously reside in and occupy one of the dwelling units on said lot. The primary residence, the ADU, and the lot on which it is situated must be held in common ownership at all times.
- (10) Compliance. All ADUs must be in compliance with all applicable laws, rules, regulations and codes, including, but not limited to, building, fire, electrical, health and other applicable safety codes.
- (11) Public Utilities. ADUs shall only be permitted where the subject lot has connections to public water and public sanitary sewer systems.
- (12) Bedrooms and Code Compliance. The ADU shall not have more than two (2) bedrooms. The ADU must include a living space and must comply with the light, ventilation, egress, and occupancy limitation requirements in New York State Code, and any other applicable laws, rules and regulations.
- (13) Occupancy Limitations. ADUs shall comply with the occupancy limitations set forth in the New York State Property Maintenance Code but in no event shall more than two (2) adults occupy a studio or one (1) bedroom ADU and in no event shall a two (2) bedroom ADU have more than four (4) adult occupants. The owner(s) shall submit a sworn affidavit

certifying, under penalty of perjury, that the ADU complies with the occupancy limitations specified herein.

- (14) Transfer of permit with sale of property. The property owner shall be required to provide a copy of the special permit to the purchaser when the parties execute a sales contract for the property. If a property with an ADU is sold, the Special Permit may be transferred to the new owner provided that the purchaser files an ADU renewal application within ninety (90) days following the purchase date. Prior to the transference of the Special Permit, the property and ADU must be inspected and a certificate of compliance must be issued by the Building Department, which shall only be issued if the property and ADU is found compliant with Town and State Codes, and any other applicable laws, rules and regulations. An ADU Special Permit shall expire automatically if the new owner does not apply for an ADU renewal permit within ninety (90) days of the change in ownership. The tenant of an ADU with a lease from the prior property owner shall be permitted to remain until the end of the current lease term not to exceed twelve (12) months. All tenants shall be given a minimum of (90) ninety days notification regarding discontinuance of the special permit by the new owner, if applicable, and discontinuance of the use of the ADU for rental purposes. Said notice provision shall be included in the lease agreement to the tenant.
- (15) Permit Cap. The Town Board, by duly adopted resolution, shall have the ability to institute a cap on the number of complete ADU applications received annually. Complete ADU applications are those that have received an application number from the Department of Community Development and Conservation, following Department review.
- (16) Neighborhood Character. The Planning Board shall have discretion to deny an application where it is determined that an ADU, or multiple nearby ADUs in an area could detrimentally impact the area where any or all of the following exist: (1) lack of available on-street parking; (2) sub-standard street width; (3) lack of appropriate visual screening; or (4) other inadequate site characteristics.
- (17) Construction timeframe. If construction on the ADU does not commence within 12 months of the date of special permit approval and an extension has not been approved by the Planning Board prior to the expiration date, the special permit shall lapse and a new permit shall be required.

(18) Certifications. For all certifications required by this Section, sworn affidavits must be submitted at the time of application and annually by January 10th to the Building Inspector.

(19) Penalties. Any property owner who violates any provision of this section, or any condition imposed by the Town in connection with an ADU shall be subject to revocation of the ADU Special Permit and subject to a fine of not less than \$1,000.

(20) Submission Requirements:

(a) The application for special permit approval shall include:

[1] a site plan and elevations acceptable to the Planning Board.

[2] a fully dimensioned diagram or floor plan showing planned occupancy or use of all floors, areas, interior and exterior, including areas to be utilized for the proposed ADU, including exits, fire prevention measures, windows, doors, sanitary facilities, utilities, and off-street parking. Following issuance of a special permit for an ADU, Applicant's shall submit a building permit application with plans prepared by a New York State licensed architect or engineer showing compliance with New York State Building Code and Town Code to the Building Department, and any other applicable laws, rules and regulations.

(21) Planning Board ADU special permit procedure. All applications shall follow the special permit procedures identified in Section 285-29.1G.

(22) Sunset Clause. A complete Accessory Dwelling Unit (ADU) application must be filed with the Department of Community Development and Conservation within one (1) year from the date of adoption of this Section, unless this Section is subsequently amended or extended by local law. Applicants who receive approval from the Planning Board for a complete ADU application filed within this one-year period must: obtain all necessary permits from the Building Department; commence construction within six (6) months of the date the Building Permit is issued; and complete construction, including obtaining all required approvals, within one (1) year of the Building Permit issuance date. Extensions of time may be granted at the discretion of the Building Inspector and the Commissioner of Community Development and Conservation upon a showing of good faith efforts to complete the project.

§ 7. Amendments to Section 285-38: Off-street parking, loading, and landscaping requirements.

Section 285-38E of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

Use	Minimum Parking (spaces)
Accessory Dwelling Unit	One off-street parking space shall be provided for each bedroom of the accessory dwelling unit.

§ 8. Amendments to Section 285-39: Lot and bulk requirements.

Section 285-39A of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

A. Minimum dwelling sizes.

(1) Application to one-family dwellings. No building permit or certificate of occupancy shall be issued with respect to the construction, alteration or occupancy of any one family dwelling located in a one-family residence district unless such dwelling contains the minimum livable floor area in square feet conforming to the number shown on such Supplementary Zoning Map for the district in which it is situated. No building permit or certificate of occupancy shall be issued with respect to the construction, alteration or occupancy of a one-family dwelling located in any district other than a one-family residence district unless such one-family dwelling contains a minimum livable floor area of 1,050 square feet, with the exception of minimum livable floor areas permitted as part of Accessory Dwelling Units, pursuant to 285-36Q. Such minimum livable floor area shall include all spaces defined as "floor area, livable" in this chapter.^[2]

(2) Application to multifamily dwellings and other buildings. No building permit or certificate of occupancy shall be issued with respect to the construction, alteration or occupancy of any multifamily dwelling or any buildings, other than a one-family dwelling, containing a dwelling unit or dwelling units unless the livable floor

areas of all dwelling units therein equals or exceeds 600 square feet, except that, in the case of studio apartments, the minimum livable floor area therein shall equal or exceed 450 square feet, or Accessory Dwelling Units, pursuant to 285-36Q which permits 400 sq. ft. units. In computing such livable floor area, the definition defining "floor area, livable" shall be applicable.

(3) Accessory Dwelling Units. No building permit or certificate of occupancy shall be issued with respect to the construction, alteration or occupancy of any accessory dwelling unit, that does not comply with the provisions of 285-36Q.

§ 9. Amendments to Section 285-56: Exemptions.

Section 285-56 of ARTICLE VIII, Site Plan Approval, of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

§ 285-56 Exemptions.

The provisions of this article shall not apply in any of the following instances:

A. A single one-family dwelling.

B. Accessory Dwelling Units, with the exception of those approved in connection with any new subdivision, subdivision improvement plan, or PUD approval process.

C. A single two-family dwelling.

§10. Supersession:

Pursuant to New York Municipal Home Rule Law Section 22, this law is intended to supersede any other inconsistent provision of law.

§ 11. Severability:

If any clause, sentence, paragraph, subdivision, section or part of this law or the application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or its application to the person or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 12. Effective Date:

This law shall take effect immediately upon filing with the Secretary of State.