

# *Local Law Filing*

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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.

☐County   ☐City   ☒Town   ☐Village  
(select one:)

**of Montgomery**

**Introductory Local Law No. 15 of the year 2021**

**A LOCAL LAW ESTABLISHING A PROCEDURE TO CREATE AN AFFORDABLE,  
SUPPORTIVE, AND VETERANS SUPPORTIVE HOUSING FLOATING ZONE**

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

See attached.

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**(If additional space is needed, attach pages the same size as this sheet, and number each.)**

**TOWN OF MONTGOMERY**

**INTRODUCTORY LOCAL LAW NO. 15 OF 2021**

**A LOCAL LAW ESTABLISHING A PROCEDURE TO CREATE AN AFFORDABLE, SUPPORTIVE, AND VETERANS SUPPORTIVE HOUSING FLOATING ZONE**

Be it enacted by the Town Board of the Town of Montgomery, County of Orange, State of New York as follows:

**Section 1.**                      **Title.**

This Local Law shall be referred to as “**A LOCAL LAW ESTABLISHING A PROCEDURE TO CREATE AN AFFORDABLE, SUPPORTIVE, AND VETERANS SUPPORTIVE HOUSING FLOATING ZONE**”.

**Section 2.**

**The Town of Montgomery Code Chapter 235 is hereby amended to include the following:**

**§235-6.5 Affordable, Supportive and Veterans Supportive Housing Floating Zone**

**A. STATEMENT OF INTENT AND OBJECTIVES.**

- (1) It is the intent of this Affordable, Supportive and Veterans Supportive (ASVS) Floating Zone to provide a more flexible zoning framework to incentivize the construction of inclusionary housing for populations that cannot afford area market-rate housing or that require supportive services or specialized facilities without which they would not be able to maintain an independent lifestyle with health, security and dignity. In the place of prescribed standards for uses, lot sizes, yards and setbacks, this district favors a more process-based approach, wherein an applicant will develop a Master Development Plan designed to meet several identified planning purposes and criteria, as a basis for more flexible use, bulk and design standards. The ASVS District is a floating zone that may be affixed to parcels by the Town Board as provided below.
- (2) This district is intended to partially implement recommendation 2.1.8 of the Montgomery Comprehensive Plan entitled *Vision 20/20* that recommends as follows:

*Senior, Workforce, Special Needs and Veteran Housing Floating Zone. The Town should consider amending the zoning code to allow a senior, workforce (an income classification often keyed to entry-level public service employment wages), special needs and veterans housing floating zone district to provide flexibility and encourage additional housing options for these populations. This floating zone would require certain conditions that must be met before the district can be approved or “landed” on a certain piece of land. The intent of this floating zone is to provide special opportunities, as well as a flexible and workable concept of community living, including but not limited to a range of optional nutritional, recreational, housekeeping and health related services, as well assistance with daily living activities designed to maintain a level of independent living. Generally, this type of housing should be within walking distance to retail and service commercial areas – preferably Villages, and infrastructure to support wastewater disposal and potable drinking water must be present or proposed.*

## **B. APPLICATION CONTENTS.**

- (1) Petition for the ASVS overlay to be applied to a parcel or parcels shall be made to the Town Board along with a Master Development Plan illustrating the general layout.
- (2) Master Development Plan (MDP) required. In order to allow the Town Board and the petitioner to reach an understanding on the basic use mix, density and layout, prior to designation of the ASVS, a Master Development Plan shall be submitted that meets the following criteria:
  - i. The MDP shall be prepared by an architect, engineer or land surveyor licensed in the State of New York.
  - ii. The MDP shall be drawn to an engineering scale and contain the date of last revision, north arrow and graphic scale.
  - iii. The MDP shall contain the stamp or seal and be signed by the professional preparing the map.
  - iv. The interior road system of all existing and proposed rights-of-way and easements shall be provided and indicated as to whether public or private ownership is proposed.
  - v. Use areas shall be designated with conceptual footprints indicating the number of dwelling units and bedrooms by each housing type and indicating the floor area of non-residential, general community facilities and accessory structures.
  - vi. If open spaces or conservation easements are proposed, such shall be outlined on the MDP and a narrative provided indicating how open spaces are to be preserved in perpetuity, owned and maintained.
  - vii. Proposed bulk requirements applicable to designated use areas of the site, including building heights, building setbacks from proposed site roadways or external existing Town roadways, coverage restrictions, FAR restrictions, separation between buildings, and any other bulk constraints necessary to ensure site plans for component use areas are consistent with the plan portrayed in the MDP.
  - viii. Conceptual elevations of proposed buildings in each use area, and identification of general architectural or site design features.
  - ix. The proposed water, storm and sanitary sewer systems shall be shown and how they are proposed to be connected to the system of adjoining areas shall be indicated.

- x. Environmental characteristics of the project site shall be shown, including topography, areas of slope in excess of 25%, flood zones, rock outcrops, waterbodies, jurisdictional wetlands and all proposed alterations of said environmental characteristics.
  - xi. Estimates of peak-hour traffic generation derived from the proposed development and its relation to surrounding development and its relation to surrounding roads and intersections, including design elements to mitigate traffic impacts shall be provided in an accompanying narrative.
  - xii. If the development is to be phased, a clear indication of the phasing process shall be provided. The MDP shall show each phase of development with the dates of anticipated commencement and completion of the same.
  - xiii. Narrative of how the proposal would be consistent with the official planning objectives of the Town as well as the criteria listed in subsection C.
- (3) State Environmental Quality Review. The authorization of ASVS zoning to any parcel shall be subject to SEQR pursuant to 6 NYCRR 617.

### **C. CRITERIA FOR AUTHORIZATION OF ASVS FLOATING ZONE.**

Authorization of the ASVS floating zone is subject to the same discretion as any zoning map amendment. Compliance with indicated criteria in no way compels the Town Board to designate the site for ASVS Floating Zone. The Town Board shall consider the following criteria among other relevant considerations in determining whether or not to authorize the “landing” or designation of the ASVS Floating Zone to a particular parcel or group of parcels in connection with a proposed petition and MDP.

- (1) The proposal is conceptually sound in that it meets a demonstrated community or market need and it conforms to sustainable design principles in the layout of the proposed roadway system, in the land use configuration, open space and drainage system and in the scale of the elements, both absolute and as they relate to one another.
- (2) The proposed project area is appropriately located and generally within reasonable walking distance to a commercial center of the Town providing a range of retail and personal services to future residents of the proposed development.
- (3) The site must be served by a central water and sewer system approved by the Town Board.
- (4) Permitted residential density. The maximum residential density of dwelling units within the proposed MDP shall be equal to the gross lot area (without reduction of environmentally constrained lands) multiplied by 24 units per acre.
- (5) Proposed units must be funded and/or income-restricted under the supervision of a department of New York State, Orange County, or the Town of Montgomery for the purposes of providing dwellings with or without supportive services to households whose householder meets qualifying criteria on a continuing basis by way of age, veteran status, or disability.
- (6) An average of no more than 1.75 bedrooms per unit are provided across the entire MDP, no more than 20% of units have three bedrooms and no unit has more than three bedrooms as a means of limiting impacts on school resources and providing a diversity of housing, not currently served by the Town’s existing housing supply. This standard may be exceeded where occupancy by persons under the age of 18 is restricted.

- (7) There are adequate public facilities, services, utilities and road access available to support the development or adequate facilities are proposed to be made available.
- (8) Permitted principal uses. The following uses may be authorized as parts of an MDP for development of a ASVS district:
- i. One -family detached dwelling units on individual lots of not more than 10,000 square feet.
  - ii. One-family attached dwelling units.
  - iii. One-family semi-attached dwelling units.
  - iv. Multiple dwellings (apartments, flats).
  - v. Assisted living facilities.
  - vi. Nursing homes.
  - vii. Open space preserves and parkland.
  - viii. Sit-down restaurants, personal service establishments, healthcare clinics, pharmacies and/or retail uses intended primarily to service the principal use(s) of the ASVS and restricted to no more than 25% of the gross floor area.
  - ix. Agricultural use including use of areas designated as open space.
- (9) Permitted accessory uses. The following uses may be authorized accessory to a principal permitted use proposed as part of an MDP for development of an ASVS district:
- i. Accessory uses as permitted elsewhere in this chapter for principal uses allowed in the ASVS, except that accessory apartments shall not be permitted for any unit within an ASVS. All apartments are expected to be counted as part of the density calculation of the ASVS.
  - ii. Other accessory uses related to the planned development and subordinate to the principal use, including storage and maintenance buildings, management offices, clubhouses, recreational uses and facilities, project rental/sales centers, security facilities, and utility structures serving the proposed development.
  - iii. Common dining, laundry, personal service and housekeeping facilities, principally for the use of residents and which services are included as part of the monthly rent or HOA fee.
- (10) Design standards. The following design standards are suggested minimum and maximum standards, which may be modified by the Town Board based on the particular project site conditions, proposed project attributes, and surrounding uses. Additionally, the Town Board may impose any additional yard, setback, height, coverage, FAR, parking, lot area, or other dimensional or area requirement as it deems necessary to ensure the health, safety and general welfare of the community and neighborhood and in order to serve the intent and purposes of this section.
- i. Maximum coverage of all impervious surfaces – 80%
  - ii. Minimum distance between principal buildings - not less than the average height of each building.
  - iii. Minimum setback between principal building and existing public street - 25 feet.
  - iv. Minimum yards - 20 feet from all lot lines.
  - v. Maximum height - 40 feet.

- vi. Off-street parking and loading. Off-street parking and loading shall be provided in accordance with the ratios established in §235-12 [formerly section 100], except that where permanent occupancy is restricted to persons over the age of 18, the parking requirement shall be 1 space per studio, efficiency or one-bedroom dwelling unit, 1.5 spaces per two-bedroom dwelling unit, and 2 spaces per dwelling unit with three or more bedrooms.
- vii. The right-of-way and pavement widths for internal roads and driveways shall be determined from sound planning and engineering standards to be adequate and sufficient in size, location and design to accommodate the maximum traffic, parking and loading needs and the access of fire-fighting equipment and police or emergency vehicles.

#### **D. TOWN BOARD PROCEDURE.**

- (1) Referral to Planning Board. After the Town Board has determined that the application is for a viable project that it wishes to consider for ASVS Floating Zone, it shall refer the application to the Planning Board. Such referral shall include the proposed petition and Master Development Plan. In the case of such referral, the Planning Board shall submit its report on the proposed petition to the Town Board within 45 days of receipt of a referred petition. The Planning Board shall review the petition and Master Development Plan against the criteria in subsection C in recommending whether to authorize the ASVS floating zone. The Planning Board shall also review the layout of the Master Development Plan as well as the scale and intensity of proposed development. The Planning Board shall recommend whether the MDP should be approved, approved with modifications or denied and is encouraged to provide recommendations for how the MDP could be improved in order to incorporate best practices of sustainable land development.
- (2) Referral to Orange County Planning. The Town Board shall refer the petition to Orange County Planning Department for comment pursuant to the applicable provisions of GML §239 and receive their report prior to making a decision to land the ASVS floating zone district.
- (3) Public Hearing Required. Prior to designating or “landing” the ASVS floating zone district, the Town Board shall hold a public hearing for the purposes of soliciting public comment. This public hearing shall be held concurrently with any public hearing required under 6 NYCRR 617. The public hearing shall be advertised and notice in accordance with the Town Board’s policies and procedures.
- (4) Decision. The Town Board shall disapprove, approve or approve subject to conditions the petition in accordance with the provisions of NY Town Law Section 265 Article XVIII (Amendments) of this chapter, in the form of a local law. When deciding whether to disapprove, approve, or approve with conditions a petition for ASVS, the Town Board will consider:
  - i. The consistency of the proposed petition and MDP with the intent of the ASVS floating zone.
  - ii. The consistency with the goals and objectives of the Comprehensive Plan as listed in subsection A.
  - iii. The consistency with the criteria listed in subsection C.
  - iv. The report of the Planning Board including any recommended modifications.

- v. The report and recommendation of Orange County Planning Department.
  - vi. The input of any interested or involved agencies as defined by 6 NYCRR 617.
  - vii. The suitability of the MDP to meet the purposes of this chapter as well as its incorporation of best practices for sustainable land development.
- (5) The Town Board, in its discretion, may impose reasonable conditions to an approved ASVS designation as necessary to assure conformance of the project with the intent, objectives and requirements of these regulations.
- (6) The approved ASVS shall be designated on the Official Zoning Map of the Town of Montgomery, New York and reference the local law authorizing the designation shall be included on the Map.
- (7) Standard conditions regarding ASVS authorization. Unless otherwise overridden by the Town Board, authorization for ASVS shall be conditioned upon the following:
- Securing of site plan approval in accordance with Article VI of the Zoning Code of the Town of Montgomery prior to issuance of a building permit in connection with the construction of any element of an approved MDP.
- If a valid and complete application for site plan approval is not presented to the Planning Board for approval within 12 months of the date of ASVS authorization or if no development is initiated on the site within 24 months of the date of approval of a site plan by the Planning Board, the zoning of said parcel shall revert back to the zoning of said parcel prior to its change to an ASVS district. The Town Board may upon application, extend either term for up to four six-month periods, where it finds that the development was delayed for cause reasonably beyond the control of the applicant.
- (8) Upon designation, the MDP and attendant narratives, design requirements, indicated bulk standards and other conditions of approval shall override any competing provisions of the Zoning Local Law.

#### **E. SITE PLANS APPROVAL REQUIRED.**

Site Plan approval by the Planning Board shall be required prior to issuance of a building permit for construction of a structure or use authorized as part of the MDP. The Planning Board will utilize the MDP and any bulk standards or other conditions imposed by the Town Board as the authorized uses and bulk requirements relative to site plan approval. All other provisions of the Zoning Local law including §235-16.5 [formerly 140-50] shall apply except to the extent that they are not consistent with the approved MDP and resolution of ASVS approval.

#### **Section 4. Severability.**

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Montgomery hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

**Section 5.**      **Repeal.**

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

**Section 6.**      **Effective Date.**

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.



(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 Introductory Local Law No. \_\_\_\_ of 2021 of the (County)(City)(Town)(Village) of Montgomery was duly passed by the Town Board of the Town of Montgomery on \_\_\_\_\_, 2021, 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 (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ 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 (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ 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 (County)(City)(Town)(Village) of \_\_\_\_\_ 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 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 \_\_\_\_\_ 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 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.

(Seal)

\_\_\_\_\_  
Tara Stickles, Town of Montgomery Town Clerk  
Clerk of the county legislative body, City, Town or Village  
Clerk or officer designated by local legislative body

Date: \_\_\_\_\_