*** § 421-p. Exemption of newly-constructed or converted rental multiple dwellings.** 1. (a) A city, town or village may, by local law, provide for the exemption of rental multiple dwellings constructed or converted in a benefit area designated in such local law from taxation and special ad valorem levies, as provided in this section. Subsequent to the adoption of such a local law, any other municipal corporation in which the designated benefit area is located may likewise exempt such property from its taxation and special ad valorem levies by local law, or in the case of a school district, by resolution.

(b) As used in this section, the term "benefit area" means the area within a city, town or village, designated by local law, to which an exemption, established pursuant to this section, applies.

(c) The term "rental multiple dwelling" means a structure, other than a hotel, consisting of ten or more dwelling units, where all of the units are rented for residential purposes, and twenty-five percent of such units, upon initial rental and upon each subsequent rental following a vacancy during the benefit period, are affordable to and restricted to occupancy by individuals or families whose household income does not exceed a weighted average of no less than sixty percent of the area median income and no more than eighty percent of the area median income, adjusted for family size, at the time that such households initially occupy such dwelling units, provided further that all of the income restricted units upon initial rental and upon each subsequent rental following a vacancy during the restriction period or extended restriction period, as applicable, shall be affordable to and restricted to occupancy by individuals or families whose household income does not exceed one hundred percent of the area median income, adjusted for family size, at the time that such households initially occupy such dwelling units. Provided further, that any local law authorizing an exemption pursuant to this section may provide for the area median income weighted average within the amounts set forth in this paragraph. Such restriction period shall be in effect coterminous with the benefit period, provided, however, that the tenant or tenants in an income restricted dwelling unit at the time such restriction period ends shall have the right to lease renewals at the income restricted level until such time as such tenant or tenants permanently vacate the dwelling unit.

2. Eligible newly-constructed or converted rental multiple dwellings in a designated benefit area shall be wholly exempt from taxation while under construction, subject to a maximum of three years. Such property shall then be exempt for an additional period of twenty-five years, provided, that the exemption percentage during such additional period of twenty-five years shall begin at ninety-six percent and shall decrease by four percent each year thereafter. Provided, however:

(a) Taxes shall be paid during the exemption period in an amount at least equal to the taxes paid on such land and any improvements thereon during the tax year preceding the commencement of such exemption.

(b) No other exemption may be granted concurrently to the same improvements under any other section of law.

3. To be eligible for exemption under this section, any new construction shall take place on vacant, predominantly vacant or underutilized land, or on land improved with a non-conforming use or on land containing one or more substandard or structurally unsound dwellings, or a dwelling that has been certified as unsanitary by the local health agency. The provisions of this subdivision shall not apply to any new conversions undertaken pursuant to this section.

4. Application for exemption under this section shall be made on a form prescribed by the commissioner and filed with the assessor on or before the applicable taxable status date.

5. In the case of a newly constructed or converted property which is used partially as a rental multiple dwelling and partially for commercial or other purposes, the portion of the property that is used as a rental multiple dwelling shall be eligible for the exemption authorized by this section if:

(a) The square footage of the portion used as a rental multiple dwelling represents at least fifty percent of the square footage of the entire property;

(b) The rental units are affordable to individuals or families as determined according to the criteria set forth in paragraph (c) of subdivision one of this section; and

(c) The requirements of this section are otherwise satisfied with respect to the portion of the property used as a rental multiple dwelling.

6. (a) For the purposes of this subdivision, the following terms shall have the following meanings:

(i) "Applicant" shall mean an applicant for the exemption authorized by this section and/or any successor to such applicant.

(ii) "Covered building service employer" shall mean any applicant and/or any employer of building service employees for such applicant including, but not limited to, a property management company or contractor.

(iii) "Building service employee" shall mean any person who is regularly employed at, and performs work in connection with the care or maintenance of, an eligible multiple dwelling, including, but not limited to, a watchman, guard, doorman, building cleaner, porter, handyman, janitor, gardener, groundskeeper, elevator operator and starter, and window cleaner, but not including persons regularly scheduled to work fewer than eight hours per week at such eligible multiple dwelling.

(iv) "Fiscal officer" shall mean the commissioner of labor.

(v) "Eligible multiple dwelling" shall mean any newly-constructed or converted rental multiple dwellings that receive benefits pursuant to this section.

(b) All building service employees employed by the covered building service employer at the eligible multiple dwelling shall receive the applicable prevailing wage in accordance with article nine of the labor law for the duration of the benefit period, regardless of whether such benefits are revoked or terminated. Such applicable prevailing wage shall in no case be lower than the prevailing wage provided to building service employees for work performed within the respective county under the collective bargaining agreement covering the largest number of hourly building service employees employed at residential buildings within such county in each job classification established by the commissioner of labor. The commissioner of labor shall determine the applicable prevailing wage rates and prevailing rate of fringe benefits for each job classification consistent with the corresponding job

classifications covered by such collective bargaining agreements. To determine the applicable supplement benefit rate, the commissioner of labor shall identify the applicable hourly, weekly or monthly cost to an employer as specified under the applicable collective bargaining agreement of providing such supplements.

(c) (i) The fiscal officer shall have the power to enforce the provisions of this subdivision. In enforcing such provisions, the fiscal officer shall have the power: (A) to investigate or cause an investigation to be made to determine the prevailing wages for building service employees, and in making such investigation, the fiscal officer may utilize wage and fringe benefit data from various sources, including, but not limited to, data and determinations of federal, state or other governmental agencies; provided, however, that the provision of a dwelling unit shall not be considered wages or a fringe benefit; (B) to institute and conduct inspections at the site of the work or elsewhere; (C) to examine the books, documents and records pertaining to the wages paid to, and the hours of work performed by, building service employees; (D) to hold hearings and, in connection therewith, to issue subpoenas, the enforcement of which shall be regulated by the civil practice law and rules, administer oaths and examine witnesses; (E) to make a classification by craft, trade or other generally recognized occupational category of the building service employees and to determine whether such work has been performed by the building service employees in such classification; (F) to require the applicant to file with the fiscal officer a record of the wages actually paid to the building service employees and of their hours of work; (G) to delegate any of the foregoing powers to such fiscal officer's deputy or other authorized representative; (H) to promulgate rules as such fiscal officer shall consider necessary for the proper execution of the duties, responsibilities and powers conferred upon him or her by the provisions of this subdivision; and (I) to prescribe appropriate sanctions for failure to comply with the provisions of this subdivision.

(ii) For each violation of paragraph (b) of this subdivision, the fiscal officer may require the payment of:

(A) back wages and fringe benefits;

(B) liquidated damages up to three times the amount of the back wages and fringe benefits for willful violations; and/or

(C) reasonable attorneys' fees. If the fiscal officer finds that the applicant has failed to comply with the provisions of this subdivision, such fiscal officer shall present evidence of such non-compliance to the village, town, or city that enacted a local law pursuant to this section, or to any municipal agency or entity identified in such local law.

(d) Paragraph (b) of this subdivision shall not be applicable to: (i) an eligible multiple dwelling containing less than thirty dwelling units; or (ii) an eligible multiple dwelling whose new construction or conversion is carried out with the substantial assistance of grants, loans or subsidies provided by a federal, state or local governmental agency or instrumentality pursuant to a program for the development of affordable housing.

(e) The applicant shall submit a sworn affidavit with its application certifying that it shall ensure compliance with the requirements of this subdivision or is exempt in accordance with paragraph (d) of this subdivision. Upon the approval of the village, town, or city that enacted a local law pursuant to this section, or of any municipal agency or entity identified in such local law, of such application, the applicant who is not exempt in accordance with paragraph (d) of this subdivision shall submit annually a sworn affidavit to the fiscal officer certifying that it shall ensure compliance with the requirements of this subdivision.

(f) The village, town, or city that enacted a local law pursuant to this section, or any municipal agency or entity identified in such local law shall annually publish a list of all eligible sites subject to the requirements of this subdivision and the affadavits required pursuant to paragraph (e) of this subdivision.

(g) If a covered building service employer has committed three violations of the requirements of paragraph (b) of this subdivision with respect to the same eligible multiple dwelling within a five-year period, the village, town, or city that enacted a local law pursuant to this section, or any municipal agency or entity identified in such local law may revoke any benefits associated with such eligible multiple dwelling under this section. For purposes of this paragraph, a "violation" of paragraph (b) of this subdivision will be deemed a finding by the fiscal officer that a covered building service employer

has failed to comply with paragraph (b) of this subdivision and has failed to cure the deficiency within three months of such finding. Provided, however, that after a second such violation, the applicant shall be notified that any further violation may result in the revocation of benefits under this section and that the fiscal officer shall publish on its website a list of all applicants with two violations as defined in this paragraph. If benefits are terminated or revoked for failure to comply with this subdivision all of the affordable housing units shall remain subject to rent stabilization and all other requirements of this section for the duration of the restriction period, regardless of whether such benefits have been terminated or revoked.

7. The exemption authorized by this section shall not be available in a city with a population of one million or more.

8. Any recipient of the exemption authorized by this section or their designee shall certify compliance with the provisions of this section under penalty of perjury, at such time or times and in such manner as may be prescribed in the local law adopted by the city, town or village pursuant to paragraph (a) of subdivision one of this section, or by a subsequent local law. Such city, town or village may establish such procedures as it deems necessary for monitoring and enforcing compliance of an eligible building with the provisions of this section.

* NB There are two § 421-p's