

PROPOSED LOCAL LAW L OF 2019

A LOCAL LAW

Amending Chapter 295, Zoning of the Code of the Village of Hastings-on-Hudson, Section 295-67D(2)(b), One-Family Residence (R-20) Districts to Amend Provisions for Accessory Apartments

Be it enacted by the Board of Trustees of the Village of Hastings-on-Hudson as follows:
(added language is **bold**, removed language is ~~strike through~~)

SECTION 1. Section 295-67D(2)(b) of the Code of the Village of Hastings-on-Hudson is hereby amended to read as follows:

(b) Accessory apartments.

[1] In a single-family residence, one accessory apartment shall be permitted, provided that the following conditions are met:

[a] The owner of the single-family residence in which the accessory apartment is to be located shall occupy one of the dwelling units on the premises as a principal residence.

[b] An accessory apartment shall be located in the principal building or in a conforming accessory building.

~~[c] An accessory apartment shall be permitted only in a building or portion of a building either already in existence on, or for which a building permit was issued prior to, November 1, 1994. This limitation, however, shall not apply to an affordable housing unit if the Affordable Housing Board (or its successor) recommends that an accessory apartment be permitted in the affordable housing unit.~~

[d] An accessory apartment shall not be permitted in a residence that houses one or more boarders or roomers.

[e] An accessory apartment permit is to be obtained from the Planning Board. An accessory apartment permit may be issued only to the owner-occupant of the principal residence at which the accessory apartment is to be located.

[f] An applicant for an accessory apartment permit shall furnish a site plan indicating existing building and lot conditions and a dimensional floor plan of the principal building and the proposed accessory apartment. The site plan shall also include a location map showing the applicant's property and adjacent property and streets, location of existing and proposed off-street parking and ingress and egress to the site.

[g] An accessory apartment permit may be issued by the Planning Board only after the subject application is reviewed and reported upon by the Building Inspector. Such review by the Building Inspector shall include but not be limited to a physical inspection of the residence in which the accessory apartment is to be located.

- [h] The Planning Board shall conduct a public hearing on the application for an accessory apartment permit. The hearing shall be held upon the same notice as that required for a zoning variance.
 - [i] The minimum floor area for an accessory apartment shall be 300 square feet, but in no case shall it exceed ~~1,000 square feet or 25-33%, whichever is less,~~ of the floor area of the principal dwelling, unless, in the opinion of the Planning Board, a greater or lesser amount of floor area is warranted by the specific circumstances of a particular building.
 - [j] The accessory apartment shall not include more than two bedrooms, ~~except that an accessory apartment in an affordable housing unit permitted under Subsection D(2)(b)[1][c] of this section shall not include more than one bedroom.~~
 - [k] In addition to the parking requirements for the principal dwelling and other permitted uses, one accessible and usable off-street vehicular parking space must be provided for the accessory apartment, plus one additional space for each bedroom in excess of one in the accessory apartment.
 - [l] No exterior changes shall be made to the building in which the accessory apartment is located that, in the opinion of the Planning Board, would alter the single-family character and appearance of the residence.
 - [m] The proposed accessory apartment shall not adversely affect the single-family character of the neighborhood. In applying this requirement, the Planning Board shall consider the effect of the proposed accessory apartment on traffic, noise, congestion, appearance and any other factor that the Planning Board deems consistent with the purposes of this subsection.
 - ~~[n] Approval of the proposed method and adequacy of water supply and sewage disposal shall be obtained from the Westchester County Department of Health, if required.~~
 - [o] The proposed accessory apartment shall be in compliance with all applicable building, fire, electrical, health and other safety codes.
- [2] ~~There shall be a limitation on the issuance of accessory apartment permits so that not more than 50 accessory apartment permits are in existence during any calendar year. The limit on the number of accessory apartment permits may not be varied by the Planning Board or by the Zoning Board of Appeals. It is the intent of this subsection that neighborhoods zoned as single family maintain their single family character. The Planning Board may deny an accessory apartment permit should it find that the number of such apartments, including the one proposed, will adversely affect the character of the zoned single family neighborhood.~~
- ~~[2.1]~~ In granting an accessory apartment permit, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are consistent with the spirit and intent of the Accessory Apartment Law.
- [3] Every application for an accessory apartment permit shall be accompanied by a fee to be set by the Board of Trustees pursuant to § 295-152 of this chapter.

- [4] The Planning Board shall establish all rules and regulations necessary to administer the provisions of this subsection. A record of all accessory apartment permits shall be kept in the Village office.
- [5] ~~All owners of residences who have accessory apartments but have not previously obtained accessory apartment permits shall apply to the Planning Board for such permit within 90 days of the effective date of this subsection. If application is made within 90 days, the owner shall not be deemed in violation of this subsection until a final determination on the application has been made. If application is not made within 90 days, the owner shall be deemed in violation of this subsection. In considering such application, the Planning Board may, in its absolute discretion, waive, modify or give the applicant an opportunity to cure any violation of Subsection D(2)(b)[1][i], [k] and [l].~~
- [6] ~~For the first 90 days after the effective date of this subsection, no applications for accessory apartment permits will be accepted except for applications of owners of residences that already had an existing accessory apartment on November 1, 1994.~~
- [7] An accessory apartment permit shall be issued for a period of not more than three years and may be renewed by application to the ~~Planning Board~~ **Building Inspector**. **Notice of the renewal request shall be given by the applicant to all property owners within 100' by regular mail, with proof of mailing provided, advising that any objection to the renewal shall be provided to the Building Department.** Prior to renewal of the accessory apartment permit, the Building Inspector shall inspect the accessory apartment and determine that all the requirements of this subsection are met. **Provided no objections are received and the Building Inspector has determined the accessory apartment is in compliance, the Building Inspector shall renew the permit for an additional three years. If objections are filed, the Building Inspector shall have the option of forwarding the request to the Planning Board to** ~~The Planning Board shall~~ conduct a public hearing on the renewal application on the same notice as that required for a zoning variance, except that mail notice need not be by certified mail, **and to make a determination on the application.**
- [8] An accessory apartment permit shall expire automatically upon change of ownership of the principal residence or when the owner ceases to occupy the residence. In such event, the tenant of the accessory apartment shall be permitted to remain in the apartment for 60 days, if the owner of the principal residence so consents, unless the Planning Board approves an additional extension of time.
- [9] In the event that a residence with a valid accessory apartment permit is sold or transferred, the new owner may, within 60 days from the taking of title, apply for an accessory apartment permit. The new owner must meet all the requirements set forth in Subsection D(2)(b)[1] of this section in order to obtain an accessory apartment permit. If an application is submitted within the sixty-day period, the new owner shall not be deemed in violation of this subsection as long as the application is pending, notwithstanding the fact that the previous accessory apartment permit expired. Should a new owner maintain an accessory apartment but fail to apply for an accessory

apartment permit within 60 days from the taking of title, the new owner shall be deemed in violation of this subsection. In addition, the new owner shall be precluded from applying for an accessory apartment permit for a period of one year from the date on which title was transferred.

~~[10] — A person taking title to a residence having no accessory apartment may not apply for an accessory apartment permit for a period of five years from the date on which title was transferred and the owner began occupying the dwelling. This subsection, however, shall not apply to owners of residences who already have accessory apartments on the effective date of this subsection and who apply for an accessory apartment permit within 90 days as provided in Subsection D(2)(b)[5] above or to affordable housing units if the Affordable Housing Board (or its successor) recommends that an accessory apartment be permitted in the affordable housing unit.~~

[11] Any owner or builder, or agent of either of them, who fails to obtain an accessory apartment permit, who allows occupancy of an accessory apartment in violation of this subsection or who constructs or causes to be constructed an accessory apartment shall be guilty of an offense punishable by a fine of not less than \$1,000. Each month's continued violation shall constitute a separate additional violation. In addition to the foregoing, any owner who violates any provision of this subsection or any condition imposed by the Planning Board in granting the permit shall be subject to the revocation of the accessory apartment permit by the Planning Board.

SECTION 2. SEVERABILITY

If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

SECTION 3. 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.