

RESOLUTION ADOPTING A LOCAL LAW AMENDING VILLAGE CODE §300-11.6, ACCESSORY APARTMENTS, TO CREATE A NEW VILLAGE CODE PROVISION IN ARTICLE IX, SUPPLEMENTAL USE AND DIMENSIONAL REGULATIONS, §300-9.12 FOR ACCESSORY APARTMENTS IN R-20 AND VB

WHEREAS, the Village Board of the Village of Sag Harbor is seeking to establish affordable and workforce housing opportunities within the Village to maintain its year-round residency; and

WHEREAS, in furtherance of this goal, the Board of Trustees is considering enacting a local law amending Village Code §300-11.6, Accessory Apartments and creating Village Code § 300-9.12, Accessory Apartments to allow expanded opportunities to create accessory apartments for affordable and workforce housing and streamline the process for obtaining approvals for same; and

WHEREAS, this local law was introduced for discussion purposes on March 8, 2022, a public work session was held on this law on March 11, 2022, the law was formerly introduced at the April 12, 2022 Village Board meeting and public hearings were held on May 10, 2022 and June 14, 2022, at which time all persons either for or against the proposed local law were heard; the Village Board hereby incorporates the record of all prior public meetings held on this local law herein by reference; and

WHEREAS, the Suffolk County Planning Commission determined that the proposed legislation is a matter for local determination by letter dated June 10, 2022; and

WHEREAS, the Harbor Committee conducted a consistency review on Thursday, April 7, 2022 and found the proposed legislation consistent with Chapter 275; and

WHEREAS, the Village of Sag Harbor Planning Consultant, Nelson Pope & Voorhis, determined that the proposed action is a Type I Action under 6 NYCRR Part 617, provisions of the New York State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Village Board has reviewed the information submitted the Environmental Assessment Forms prepared by Nelson Pope and Voorhis where the magnitude and importance of potential impacts have been considered; and now, therefore be it

RESOLVED, that the Village Board hereby assumes Lead Agency status, finds that the proposed action will not result in any significant adverse impacts on the environment and hereby adopts a Negative Declaration pursuant to the SEQRA; and be it further

RESOLVED, that the companion planning study prepared in connection with this local law establishing affordable housing the Village of Sag Harbor entitled “Planning Analysis - Village of Sag Harbor Affordable Housing Legislation” dated, June 2022 is hereby adopted; and be it further

RESOLVED, that the following local law is hereby adopted:

LOCAL LAW NO. 13 OF 2022

Be it enacted by the Village Board of Trustees of the Village of Sag Harbor as follows:

A LOCAL LAW Local Law amending Village Code §300-11.6, Accessory Apartments and creating Village Code §300-9.12, Accessory Apartments to allow expanded opportunities to create accessory apartments for affordable and workforce housing.

SECTION 1. Legislative Intent.

Sag Harbor has been made and defined by people whose lives and livelihood have come from its unique location and history. Its modern economy is now more diverse and dynamic. Tourism, recreation, and the arts make it an attractive location for full- and part-time residents. Village businesses, schools, volunteer organizations and governmental services rely on individuals and families who make Sag Harbor their home. They are the core of the community, and yet, the cost of living, particularly housing, increasingly prevents them from living and working and doing business here. The goal of the legislation is help maintain a vital, cohesive, and prosperous population who are or wish to be vested in the full-time activities of a thriving village. It seeks to do this by helping make housing costs affordable for these residents in need.

The Mayor and Board of Trustees have as a central goal to assist those who currently live and work here, but who may not be able to remain here for lack of affordable housing. At the same time, it is within our goal to address the needs of young adults to find a place to make a home in their own community and seniors who may wish to remain in this community.

The Planning Strategies for the Inc. Village of Sag Harbor dated July 21, 2008, cited the difficulty of finding affordable housing in the Sag Harbor School District for the local workforce as an issue of significant concern in 2007. Specifically, the study notes,

Along with other east end communities, Sag Harbor has witnessed a steady rise in real estate values over the past few years, although this trend seems to have only caught up in Sag Harbor in recent years. In a report entitled “Real Estate Market

in the Five Eastern Villages of Long Island”, prepared by Suffolk Research Services, Inc., April 2006, yearly median prices of residential real estate were evaluated over a 15-year period. For the Village of Southampton, the six-year period of 1999 to 2005 witnessed an increase in the median value of a residence from \$265,000 to \$737,000, or a 178% increase in value. East Hampton experienced slightly greater increases over the same six-year period, from \$288,000 to \$849,000, or a 195% increase in value. Local individuals and families are finding it increasingly difficult to find housing at a price that can be afforded based upon the wages earned locally. At numerous meetings, individuals from the community have asked the Board of Trustees to introduce mechanisms that would improve the affordable housing opportunities in the Village. This increase in value and the turnover of real estate has the potential to change the face of the community, from what was once a working-class, local community to one which contains to a large measure wealthy, retired individuals and families or those who use the community as a second home. While controlling real estate values is beyond the capability of local government, the changes in the conditions in the Village of Sag Harbor puts ever-increasing pressure to manage the Village resources in a manner so as to attempt to not to increase the pressure on the local year-round residential population. The ability to sustain a balanced community relies on a number of factors - including maintaining diversity in the people who live in the community, as well as the ability to provide locally and conveniently the goods and services that are necessary. See Planning Strategies for the Inc. Village of Sag Harbor dated July 21, 2008, page 46-47.

This Board recognizes the great need to create affordable housing opportunities for the people of the Village of Sag Harbor and seeks to introduce a series of local laws that will create affordable housing opportunities in the Village that will benefit the health, safety, and welfare of the Village as a whole. Therefore, this Board seeks to amend the Village Code accessory apartment law set forth in the Special Exception Permit section of the Code in section 300-11.6 and create a new accessory apartment law by creating Village Code §300-9.12 in Chapter 300, Article IX, Supplementary Uses and Dimensional Regulations. If adopted, the new Village Code §300-9.12 will allow Accessory Apartments in R-20 to be permitted within principal structures and in accessory structures on R-20 lots, and to have a streamlined approval and review by the Building Department and BHPAR (where necessary). This would take the place of the existing code where applicants are (i) only permitted to have an accessory apartment within the principal structure, (ii) have to go to the Planning Board for Special Exception approval, (iii) are required to meet all general and specific standards, and (iv) must have a public hearing to obtain approval.

SECTION 2. Amendment. Please see the following and eliminate Village Code §300-11.6 Accessory Apartments in R-20 District and new accessory apartments in VB District, by deleting those words that are stricken:

§ 300-11.6 ~~Accessory apartments in R-20 District and~~ New accessory apartments in VB District.

[Amended 10-13-2015 by L.L. No. 15-2015]

A.

Allowance. ~~Accessory apartments in the R-20 District and~~ New accessory apartments in the VB District shall be a special exception use, provided that any such use complies with the requirements of this section and a permit is issued hereunder.

B.

~~Low or moderate~~ Affordable and workforce housing income requirement. ~~Preference~~ Priority for occupancy of any accessory apartment under this section shall be given to ~~low or moderate-affordable and workforce housing~~ income occupants as defined in Chapter 150 as well as ~~members of local fire or police departments, any ambulance corps volunteers or civil servants or hospital or school employees or any employee of a local business supplying services or products to the local community~~ those persons who otherwise already qualify and working in or for the Village of Sag Harbor; members of the Village of Sag Harbor Ambulance Corps, Police Department or Fire Department.

C.

Incentives. Approval of a new accessory apartment in the VB District shall qualify the owner of premises in the VB District to a waiver of any sewer rent in a sum equal to the percent of space at the premises used and occupied by any such accessory apartment(s).

D.

Standards.

(1)

~~Owner occupancy. The owner of real property issued an accessory apartment permit and located within the R-20 District shall reside within the principal dwelling on site.~~

(2)

~~Yield. No lot or parcel of land in the R-20 District shall be improved with more than one accessory apartment. This limitation shall not apply in the VB District. At least 20% of any new apartments in a structure in the VB District — in no event fewer than one in the event any new apartment(s) are built — shall be an accessory apartment under § 300-11.6.~~

(3) (1)

~~Location. Any accessory apartment shall be located within the principal dwelling, shall occupy no more than 40% of the principal dwelling's habitable area and shall in no event be located within an accessory structure. In the VB District, any new accessory apartment shall not be located on the first floor or below said floor.~~

(4)

~~Size. Any accessory apartment shall be no less than 300 square feet nor greater than 650 square feet. These limits do not apply in the VB District.~~

~~**(5)(2)**~~

~~Bedrooms. In no event shall the number of bedrooms in an accessory apartment exceed two bedrooms.~~

~~**(6)** Exterior appearance. Any entryway or other exterior feature of a principal dwelling in the R20 District with an accessory apartment shall be designed and maintained so as to appear as a single family dwelling to the extent reasonably feasible. In no event shall an entry solely for an apartment face a street.~~

~~**(7)(3)**~~

~~Off-street parking. Any applicant hereunder shall in good faith seek to provide at least one off-street parking space for any such accessory apartment, but no off-street parking spaces shall be required for an accessory apartment hereunder.~~

~~**(8)(4)**~~

~~Code compliance. Any accessory apartment shall be improved and maintained in compliance with the Village Code, the New York State Fire Prevention and Building Code and the Suffolk County Sanitary Code.~~

~~**(9)(5)**~~

~~Inspection. As a condition of approval of any permit for an accessory apartment, the applicant or its designated, authorized representative shall authorize the Building Inspector and/or Fire Marshal to make or cause to be made inspections, upon reasonable notice, to determine the condition of the dwellings and compliance with the provisions of this section to safeguard the health, safety and welfare of the public.~~

~~**E.**~~

~~Amnesty. Any owner of any dwelling within the R-20 District now unlawfully improved with an accessory apartment of any kind shall be allowed one year from the date of enactment of this section without penalty, provided said owner within 90 days after issuance of a permit hereunder complies with all the requirements of this section including the requirements of any other agency with jurisdiction.~~

~~**F.E**~~

~~Duration. Any permit for an accessory apartment shall be initially for a period of one year; shall be, upon its initial renewal, for a period of two years; and shall be, on any subsequent renewal, for a period of three years. for a period of one year and must be renewed annually. At the time of any such renewal, the applicant shall provide a statement attesting to the efforts that have been made to comply with the requirements set forth in §300-11.6.B herein.~~

~~**G.**~~

~~Transferability. Any permit for an accessory apartment may be transferred by an owner of the principal dwelling to a successive owner of the principal dwelling, provided that written notice~~

~~including the name and mailing address of the successive owner is given to the Accessory Apartment Review Board by the permit holder, and in no event may any interest of a tenant of an accessory apartment be transferred to a third party tenant except upon approval of eligibility under Subsection B above.~~

~~H.~~

~~Accessory Apartment Review Board. Applications for permits hereunder shall be reviewed and approved or denied by the Accessory Apartment Review Board ("Board"). The Board shall consist of three members who shall serve without compensation. The members shall be appointed by the Mayor with the approval of the Board of Trustees. One person shall be designated by the Mayor to act as Chairperson for the term of that member's appointment. One member shall be appointed for one year, one shall be appointed for two years, and one shall be appointed for three years. All successor appointments shall be for three years. The Board shall maintain a record of its proceedings, and all such records shall be public records subject to the Public Officers Law.~~

~~I.~~

~~Applications. All applications shall be in forms prescribed by the Board. Any application shall include:~~

~~(1)~~

~~An application to the Building Department for preapproval of occupancy and use, together with plans by a licensed design professional and any such other plans, documents or surveys required by the Building Department, an application to the Building Department for all necessary building permits and an application to the Board for an accessory apartment permit.~~

~~(2)~~

~~The applicant shall make part of any application for preapproval of occupancy and use and building permit an approval of the Suffolk County Department of Health Services, if required.~~

~~(3)~~

~~The Board, as part of its application, may require the applicant to submit supporting documents, including but not limited to floor plans, surveys, photographs, and/or exterior renderings.~~

~~(4)~~

~~The application for the transfer of an accessory apartment permit to a subsequent property owner shall be completed on such forms and in such a manner as prescribed by the Board.~~

~~(5)~~

~~The application must be supplied by the owners of the property, and the applicant shall be required to file an acknowledgement with the Board stating that the accessory apartment permit or any extensions thereof shall terminate upon the death of the signator or the survivor of the signator upon the signator no longer occupying the premises as their principal residence or upon a conviction for a violation of this section.~~

~~(6)~~

~~The applicant is required to file a form stating that the subject dwelling(s) shall conform with all requirements of this section, all applicable provisions of the Code of the Village of Sag Harbor,~~

Suffolk County Sanitary Code and New York State Uniform Fire Prevention and Building Code. The applicant will be required to meet pertaining standards within 90 days of the building permit, or the accessory apartment permit will become null and void.

~~**G.**~~

~~The application shall include three current surveys of the premises, a copy of a current certificate of occupancy, a list of all property owners within 200 feet and a copy of the applicant's deed.~~

~~**H.**~~

~~Hearings. Any application shall be subject to a public hearing, which shall require that applicant notify property owners within 200 feet of the date, place, time and nature of the application.~~

~~**I.**~~

~~Limitation on number. In no event may the Board approve or allow more than 50 accessory apartments in use in the R-20 District at any one time.~~

~~**J.**~~

~~Revocation. The Board shall retain the right to revoke any accessory apartment permit issued hereunder should the applicant or applicant's tenant violate any provision of this section, any condition imposed upon the issuance of the permit, or violation of the provisions of the Code of the Village of Sag Harbor. Said revocation shall be after a hearing held on notice to the applicant and, if known, the tenant. As an alternative to revocation, the Board may continue the permit on a probationary basis and, in such event, it may revoke the permit without further notice to the applicant or tenant upon a violation of any conditions attached to the probationary permit.~~

~~**K.**~~

~~Appeals. Any appeal from a determination of the Board shall be by an Article 78 proceeding, which shall be the exclusive remedy of any aggrieved party.~~

SECTION 3. Amendment. Please see the following and amend Article IX, Supplemental Use and Dimensional Regulations by adding Village Code §300-9.12, Accessory Apartments by adding those words that are underlined:

§ 300-9.12 Accessory apartments in the R-20 Zoning District

A.

Allowance. Accessory apartments in the R-20 District shall be permitted pursuant to this section, provided that any such use complies with the requirements of this section and a permit is issued hereunder.

B.

Occupancy.

Occupancy of any accessory apartment under this section shall be given to affordable and workforce housing income occupants (as defined in Village Code §150-2) or a family member of the owner. Priority also shall be given to those persons who otherwise already qualify and working

in or for the Village of Sag Harbor, the Village of Sag Harbor Ambulance Corps, Police Department, or Fire Department.

C.

Incentives.

(1) Approval of a new accessory apartment shall qualify the owner of premises to a waiver of any sewer rent in a sum equal to the percent of space at the premises used and occupied by any such accessory apartment(s).

D.

Standards.

(1)

Yield. No lot or parcel of land in the R-20 District shall be improved with more than one accessory apartment.

(2)

Location. Accessory apartments shall be permitted within the principal dwelling or in accessory structures pursuant to the standards set forth herein. Any accessory apartment that is located within the principal dwelling, shall occupy no more than 40% of the principal dwelling's habitable area.

(3)

Size.

Accessory Apartment Size. Notwithstanding Village Code §300-9.1(5), an accessory apartment shall have a minimum gross floor area of 500 square feet and a maximum gross floor area of no more than 50% of the primary residence.

(4)

Lot size. The lot containing an accessory apartment shall comply with the lot area requirement of the R-20 District; except that a nonconforming lot may be eligible for an accessory apartment.

(5) All other dimensional nonconformities shall not be less than 70% of the required setback or lot width requirements.

(6)

Bedrooms. In no event shall the number of bedrooms in an accessory apartment exceed two bedrooms.

(7)

Exterior appearance. Any entryway or other exterior feature of a principal dwelling in the R20 District with an accessory apartment shall be designed and maintained so as to appear as a single-family dwelling to the extent reasonably feasible. In no event shall an entry solely for an apartment within the principal structure face a street.

(8)

Off-street parking. Any applicant hereunder shall in good faith seek to provide at least one off-street parking space for any such accessory apartment, but no off-street parking spaces shall be required for an accessory apartment hereunder.

(9)

Code compliance.

- A. Any accessory apartment shall be improved and maintained in compliance with the Village Code, the New York State Fire Prevention and Building Code and the Suffolk County Sanitary Code. No violations of the Village Code shall exist at the time of application for an accessory apartment, or any renewals thereof. The Building Inspector shall inspect the premises upon receipt of a completed application, and the application shall not be processed until all outstanding violations are corrected.
- B. Legally existing, pre-existing, nonconforming accessory structures may be converted to an accessory apartment provided it meets the New York State Fire Prevention and Building Code and the Suffolk County Sanitary Code. Conversion to an accessory apartment or adding an accessory apartment represents a conforming use and shall not result in an increase in the degree of nonconformity pursuant to §300-10.2(C).
- C. Newly constructed accessory apartments are permitted provided they meet the provisions set forth in the Village Code, the New York State Fire Prevention and Building Code and the Suffolk County Sanitary Code.

(10)

Inspection. As a condition of approval of any permit for an accessory apartment, the applicant or its designated, authorized representative shall authorize the Building Inspector and/or Fire Marshal to make or cause to be made inspections, upon reasonable notice, to determine the condition of the dwellings and compliance with the provisions of this section to safeguard the health, safety and welfare of the public.

E.

Amnesty. Any owner of any dwelling within the R-20 District now unlawfully improved with an accessory apartment of any kind shall be allowed one year from the date of enactment of this section to submit an application for a permit hereunder without penalty. Any such owner obtaining said permit shall have 180 days after issuance of the permit to comply with all the requirements of this section including the requirements of any other agency with jurisdiction.

F.

Duration. Any permit for an accessory apartment shall be for a period of one year and must be renewed annually. At the time of any such renewal, the applicant shall provide a statement attesting to the efforts that have been made to comply with the occupancy requirements in §300-9.12B herein.

G.

Transferability. Any permit for an accessory apartment may be transferred by an owner of the principal dwelling to a successive owner of the principal dwelling, provided that written notice including the name and mailing address of the successive owner is given to the Building Inspector by the permit holder, and in no event may any interest of a tenant of an accessory apartment be transferred to a third-party tenant. No accessory apartment may be sublet.

H.

Applications for permits hereunder shall be reviewed and approved or denied by the Building Inspector.

I.

Applications. All applications shall be in forms on file with the Building Department. Any application shall include:

(1)

An application to the Building Department for preapproval of occupancy and use, together with plans by a licensed design professional and any such other plans, documents or surveys required by the Building Department, an application to the Building Department for all necessary building permits for an accessory apartment permit.

(2)

The applicant shall make part of any application for preapproval of occupancy and use and building permit an approval of the Suffolk County Department of Health Services, if required.

(3)

The Building Inspector may require the applicant to submit supporting documents, including but not limited to floor plans, surveys, photographs, and/or exterior renderings.

(4)

The application for the transfer of an accessory apartment permit to a subsequent property owner shall be completed on such forms and in such a manner as prescribed by the Building Inspector.

(5)

Only the owner of the residence may apply for this building permit and shall execute such agreements, contracts, easements, covenants, deed restrictions or other legal instruments running in favor of the Village as, upon recommendation of the Village Attorney, will ensure that:

(a)

The principal dwelling or the apartment is the domicile of all tenants therein.

(b)

The apartment or any proprietary or other interest therein will not be sold to the tenant or any other party, except as part of a sale of the entire residence in which the apartment is located.

(c)

All leases of the rental apartment shall be in writing and made available to the Village Building Department upon request and shall be for a minimum of a one-year term and may not be sublet.

(d) Proof of income of the tenant shall be produced in writing and made available to the Building Department upon request, or where the tenant is a relative of the owner, proof of income shall not be required and a notarized affidavit of proof of tenancy may be submitted in lieu of a lease for approval by the Building Department/Director of Housing prior to the issuance of an accessory apartment permit.

(e)

The apartment is properly constructed, maintained and used, and unapproved uses are excluded therefrom.

(f)

Any other conditions deemed reasonable and necessary to ensure the immediate and long-term success of the apartment in helping to meet identified housing needs in the community and to ensure minimal impact on the neighborhood structure is met.

(6)

The applicant is required to file a form stating that the subject dwelling(s) shall conform with all requirements of this section, all applicable provisions of the Code of the Village of Sag Harbor, Suffolk County Sanitary Code and New York State Uniform Fire Prevention and Building Code. The applicant will be required to meet pertaining standards within 180 days of the building permit, or the accessory apartment permit will become null and void.

(7)

The application shall include three current surveys of the premises, a copy of a current certificate of occupancy, a list of all property owners within 200 feet and a copy of the applicant's deed.

J.

Revocation. The Building Inspector shall retain the right to revoke any Certificate of Occupancy for an accessory apartment issued hereunder should the applicant or applicant's tenant violate any provision of this section, any condition imposed upon the issuance of the Certificate of Occupancy, or violation of the provisions of the Code of the Village of Sag Harbor. As an alternative to revocation, the Building Inspector may continue the Certificate of Occupancy on a probationary basis and, in such event, the Building Inspector may revoke the Certificate of Occupancy without further notice to the applicant or tenant upon continued violation of any provision of this section, any condition imposed upon the issuance of the Certificate of Occupancy, or violation of the provisions of the Code of the Village of Sag Harbor.

K. After a Certificate of Occupancy is issued for an accessory apartment, should the property owner or subsequent owner wish to eliminate the accessory apartment, all incentives granted to the property owner for establishing the apartment shall be revoked immediately and all indicia of habitable space shall be removed from the accessory apartment including but not limited to bathrooms, kitchens, bedrooms or sleeping quarters.

SECTION 4. Amendment. Please see the following and amend Village Code §300-9.1(B)(6), Placement of accessory buildings, structures and uses, B. In residence districts, by adding those words that are underlined and deleting those words that are stricken:

(6)

No accessory building and/or accessory structure, other than an accessory apartment approved under Village Code §300-9.12, shall contain any plumbing fixtures. Notwithstanding the foregoing, pool houses with a gross floor area of 200 square feet or less shall be permitted a shower, sink and toilet.

SECTION 5. Amendment. Please see the following and amend Village Code §300, Attachment 2, Village of Sag Harbor Table of Dimensional Regulations, by adding those words that are underlined and deleting those words that are stricken:

	R-20 Residence	RM Resort Motel	VB Village Business	OD Office District	WF Waterfront
Accessory apartment (minimum; maximum)	500300;-650 <u>a maximum gross floor area of no more than 50% of the primary residence</u>	N/A	750; 1,250	N/A	N/A

SECTION 6. Amendment

Please see the following and amend Village Code §300, Attachment 1, Village of Sag Harbor Table of Uses, by adding those words that are underlined and deleting those words that are stricken:

Accessory Uses	Use Description	R20	RM	VB	OD	WF
	Accessory apartment	P SE	X	SE	X	X

SECTION 7. Authority

The Village of Sag Harbor hereby enacts this legislation pursuant to NYS Village Law § NYS Village Law §§7-700, 7-725-b, NYS Municipal Home Rule Law §§10(1)(i), 10(1)(ii)(a)(6), (11).

SECTION 8. Severability.

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

SECTION 9. Effective Date.

This chapter shall take effect immediately upon filing in the office of the Secretary of State pursuant to the Municipal Home Rule Law.