

RESOLUTION ADOPTING A LOCAL LAW AMENDING VILLAGE CODE §300-9.12, ACCESSORY APARTMENTS IN R-20 AND §§300-9.1(B)(5), TO REDUCE THE SIZE OF AN ACCESSORY STRUCTURE AND CLARIFY CODE PROVISIONS

WHEREAS, the Village Board of the Village of Sag Harbor is seeking to amend Village Code §300-9.12, Accessory Apartments in the R-20 Zoning District, and §300-9.1(B)(5), Placement of accessory buildings, structures and uses, to reduce the size of an accessory structure and clarify code provisions; and

WHEREAS, in furtherance of this goal, the Board of Trustees is considering enacting a local law amending Village Code §300-9.12, Accessory Apartments in the R-20 Zoning District and §300-9.1(B)(5), Placement of accessory buildings, structures and uses to reduce the size of an accessory structure and clarify code provisions; and

WHEREAS, public hearings were held on October 10, 2023 and November 14, 2023, at which time all persons either for or against the proposed local law were heard; and

WHEREAS, the Village of Sag Harbor and the Village of Sag Harbor Planning Consultant, Nelson, Pope & Voorhis, by memorandum dated September 27, 2023, determined that the proposed action is a Type II Action requiring no further environmental review; and

WHEREAS, by letter dated October 31, 2023, the Suffolk County Planning Commission determined that the proposed local law was a matter for local determination; and now, therefore be it,

RESOLVED, that the following local law is hereby adopted:

LOCAL LAW NO. 10 OF 2023

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

A LOCAL LAW to amend Village Code §300-9.12, Accessory Apartments in the R-20 Zoning District and §300-9.1(B)(5), Placement of accessory buildings, structures and uses to reduce the size of an accessory structure and clarify code provisions.

SECTION 1. Amendment. Please see the following and amend Village Code §300-9.12, Accessory Apartments in the R-20 Zoning District, by deleting those words that are stricken and adding those words that are underlined:

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

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 § 300-9.1B(6), an accessory apartment, constructed in a detached accessory structure, shall have a minimum gross floor area of 500 280 square feet and a maximum gross floor area of 600 square feet no more than 50% of the primary residence. An attached or internal accessory apartment shall have a minimum gross floor area in compliance with the New York State Fire Prevention and Building Code and a maximum gross floor area of no more than 40 % 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 R-20 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, preexisting, 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 § 300-10.2C.

(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 covenants and restrictions as a condition of approval. ~~such agreements, contracts, easements, covenants, deed restrictions or other legal instruments running in favor of the Village.~~ Said covenants shall be recorded in the Suffolk County Clerk's Office prior to the issuance of a Certificate of Occupancy and shall constitute a covenant running with the land. ~~upon recommendation of the Village Attorney, will ensure that~~ The covenants and restrictions shall ensure the following and the Village may require additional conditions to be stated in the covenant at its discretion:

(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 2. Amendment. Please see the following and amend Village Code §300-9.1(B)(5), Placement of accessory buildings, structures and uses, by deleting those words that are stricken and adding those words that are underlined:

§300-9.1 Placement of accessory buildings, structures and uses.

B. In residence districts.

(5) No accessory building shall have a gross floor area ~~equal to or~~ greater than 600 square feet except for accessory apartments which shall be governed by Village Code §300-9.12(D)(3).

SECTION 3. Amendment.

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

	R-20 Residence	RM Resort Motel	VB Village Business	OD Office District	WF Waterfront
<u>Accessory Apartment in detached accessory structure (minimum; maximum)</u>	500; a maximum gross floor area of no more than 50% of the primary residence <u>280; 600</u>	N/A	750; 1,250	N/A	N/A
<u>Accessory Apartment attached to or part of primary structure (minimum; maximum)</u>	<u>Minimum shall comply with NYS Building Code; maximum no more than 40% of the primary residence</u>	N/A	750; 1,250	N/A	N/A

SECTION 4. Authority.

The Village of Sag Harbor hereby enacts this legislation pursuant to New York State Village Law Article 7.

SECTION 5. 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 6. 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.