

Local Law No. of the year 2006

A Local Law to amend certain sections of the Town Code of the Town of Philipstown, New York.

Be it enacted by the Town Board of the Town of Philipstown as Follows:

SECTION 1. TITLE

This local law shall be known as “A Law Amending the Town Code of the Town of Philipstown With Respect to Accessory Apartments.”

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the authority of Municipal Home Rule Law Section 10, the Town Law, and in accordance with the Zoning Law of the Town of Philipstown, New York, Section 175-91, entitled “Amendment Procedure.”

SECTION 3. PURPOSE AND FINDINGS

The Town Board of the Town of Philipstown wishes to encourage the use of accessory apartments in the Town. Accessory apartments are small units within an existing dwelling or accessory structure on a lot that is owner-occupied. They can also be located on a non-residential lot to house an on-site employee. The Philipstown Comprehensive Plan, adopted March 9, 2006 by the Philipstown Town Board, recommends that the Zoning Law be amended to allow and encourage accessory apartments (Recommendation R 1.4 in Chapter Three of the Philipstown Comprehensive Plan). The Town Board finds that accessory apartments provide an excellent way to create low-impact housing units because they are dispersed, do not necessarily involve new construction, and can be made relatively inconspicuous through design controls. They can also reduce traffic if the resident of the accessory apartment works on the same property. Accessory apartments provide affordability in two different ways, by offering a small rental unit (the accessory apartment) and by making the principal residence more affordable by providing income from the apartment to the owner. Allowing accessory apartments to be built in accessory structures such as garages and barns allows more flexibility for the landowner to provide these apartments without having to make significant alterations to existing houses, many of which are historic. To encourage accessory apartments, the Board finds that it is advisable to allow them by right on lots that meet zoning standards for lot area, design, appearance, parking, and sanitation, provided that the lot is owner-occupied and that it has direct access to a public road. A special use permit is required for such apartments where they will be located in a non-conforming structure or on a non-conforming lot, or where the lot is served by a common driveway.

SECTION 4.

Chapter 175 of the Town Code of the Town of Philipstown is hereby amended as follows:

1. Amend § 175-20 by adding the following definition:

ACCESSORY APARTMENT—A dwelling unit occupying the lesser of 800 square feet or 30% of the floor area of an owner-occupied structure containing a principal use that is single-family residential, ~~dwelling~~, a dwelling unit no larger than 800 square feet located in an accessory structure on an owner-occupied residential property, or a dwelling unit no larger than 800 square feet located in the ~~principal building or an~~ accessory structure on a non-residential property not used for residential purposes.

2. After § 175-55, add a new § 175-55.1 as follows:

§ 175-55.1 Accessory apartments.

A. One accessory apartment per lot may be located in a single-family dwelling or an accessory structure ~~or a principal building as provided~~ permitted in Schedule A. The accessory apartment shall not be counted as a residential-dwelling unit for purposes of determining density. On ~~non-residential properties~~ not used for residential purposes, one accessory apartment per lot may be allowed by Special Use Permit.

B. No permit shall be granted for an accessory apartment without certification by the Putnam County Health Department no more than one year prior to the application for the accessory apartment of the adequacy of the septic system. The accessory apartment and the dwelling with which it is associated shall comply with all applicable New York State codes.

C. An accessory apartment shall have a maximum of two bedrooms and a minimum of one off-street parking space per bedroom. Accessory apartments within a dwelling shall be installed in a manner that does not alter the single-family appearance of a dwelling when viewed from a ~~public or private road or Open Development Area right-of-way~~ street.

D. If an accessory apartment is created ~~in a residence gaining access from an Open on a lot which is accessed by a private right of way or easement~~ Development Area right-of-way, for which there is a written maintenance agreement, no special use permit shall be issued unless the maintenance agreement is amended to require the owner of the dwelling with the accessory apartment to pay an increased proportionate share of the cost of maintaining ~~the access drive~~ said right of way or easement to reflect the existence of the accessory apartment.

E. If an accessory apartment is created on a lot which is accessed by a private right of way or easement, ~~in a residence gaining access from an Open Development Area right-of-way~~ for which there is no written maintenance agreement, sub-paragraph D above shall not apply.

F. The following transitional amnesty provision shall apply to accessory apartments in existence as of the date of adoption of this Section 175-55.1.

1. ~~In order to~~To encourage landowners to apply applications for and receive issuance of permits and certificates of occupancy for existing accessory apartments that have been installed in violation of the Philipstown Zoning Law as it existed prior to the adoption of this Local Law, Section 175-55.1, landowners whose properties contain pre-existing~~such~~ illegal accessory apartments shall register their apartments with the Building Department within six months of the adoption of this local law section. Such landowners shall have a one year grace period from the date of adoption of this section to apply for and obtain certificates of occupancy and/or receive building permits and special use permits, as applicable, for such existing apartments. During this transitional year~~one year~~ grace period, such landowners shall not be prosecuted for violating the Zoning Law because of the illegal accessory apartment, provided that they register their such apartment within the six month registration period and file a building permit application and apply for and obtain the necessary certificate of occupancy and/or special use permit within one year of the adoption of this section, if applicable, a special use permit application to legalize the apartment pursuant to the zoning law provisions in Section 4 above.
2. ~~In order to~~To receive a permit certificate of occupancy and/or special use permit for an accessory apartment, a landowner shall demonstrate that the property must comply ~~complies~~ with the criteria in the zoning law as well as with all applicable building and health codes. At the end of this transitional year~~one year~~ grace period, any accessory apartment that has not come into compliance with zoning, building, and other applicable codes, shall be subject to enforcement action and penalties for code violations.
3. The amnesty protections of this ~~transitional~~ one year grace period shall expire one year from the effective date of this local law.~~adoption of this Section.~~
4. ~~This Section shall not apply to a lawfully created~~an ~~accessory apartment that is protected as a lawful non-conforming use under Section 175-81. of the Philipstown Zoning Law, provided that the landowner can prove that the accessory apartment was lawful when created. Such lawful non-conforming accessory apartment shall be allowed to continue and shall be immune from enforcement action, provided that it complies with applicable provisions of Article XVI (Non-Conforming Uses or Structures).~~the accessory apartment has not been altered in any manner that would have required obtaining a building permit.

4.

3. Amend Page A-3 of the Use Table (Schedule A – Permitted Uses) by adding new items 4A and 4B as follows:

Permitted Uses	District Codes							
	R-10	R-20	R-40	R-80	R-120	B-1	B-2	I
4. Conversion of a dwelling existing on the effective date of this chapter to contain 2 or more dwelling units.	BA	BA	BA	BA	BA	BA	BA	BA
4A. Accessory apartment on conforming residential lot with direct access to a state highway, county road, or town street or highway, public road (i.e., not access across a right-of-way); where all structures are conforming structures.	P	P	P	P	P	P	P	P
4B. Accessory apartment on conforming residential lot which is accessed by a private right of way or easement, with access to a public road via a right-of-way over other land, on a non-conforming residential lot that has at least 75% of the required lot area, and/or on a lot with non-conforming structures where there will be no increase in the non-conformity of any structure, and/or on a conforming lot not used for residential purposes.	BA	BA	BA	BA	BA	BA	BA	BA

SECTION 5. TRANSITIONAL AMNESTY PROVISION

SECTION 5. VALIDITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudicated invalid by a 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 Philipstown hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 6. REPEAL

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

SECTION 7. EFFECTIVE DATE

This Local Law shall take effect after adoption by the Town Board and upon filing in the office of the New York State Secretary of State.