

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

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Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of OSSINING

Local Law No. _____ of the year 2018

A local law entitled "Local Law No. _____ of 2018, for the Purpose of Repealing Chapter 50, Accessory Dwelling Units in Single-Family Homes, and Amending Chapter 200, Zoning, of the Town Code with Respect to Accessory Apartments."

Be it enacted by the TOWN BOARD of the

Town of OSSINING as follows:

TEXT COMMENCES ON NEXT PAGE

(If additional space is needed, attach pages the same size as this sheet, and number each.)

LOCAL LAW # __ OF THE YEAR 2018

BE IT ENACTED by the Town Board of the Town of Ossining as follows:

Section 1: Title

This Local Law shall be known and cited as "Local Law No. __ of 2018, for the Purpose of Repealing Chapter 50, Accessory Dwelling Units in Single-Family Homes, and Amending Chapter 200, Zoning, of the Town Code with Respect to Accessory Apartments."

Section 2: Legislative Intent

This local law is determined to be an exercise of the police powers of the Town to protect the public health, safety and welfare of its residents. The Town Board believes that it is reasonable and appropriate to repeal Chapter 50, Accessory Dwelling Units in Single-Family Homes, and to amend Chapter 200, Zoning, of the Town Code with respect to accessory apartments.

Section 3: Code Amendments

1. Chapter 50, Accessory Dwelling Units in Single-Family Homes, is hereby repealed.
2. The following definitions are hereby added to Section 200-53.A in their proper alphabetical order:

ACCESSORY APARTMENT DWELLING UNIT

A dwelling unit within an existing single-family home or within a detached accessory building on a permitted single-family lot ~~residence~~ which is subordinate to a ~~permitted~~ principal one-family dwelling unit in terms of size, location and appearance and which provides complete housekeeping facilities for one family, including independent cooking, bathroom and sleeping facilities.

BOARDER

A person staying at a rooming house or boarding house.

3. A new Section 200-7.D(6) shall be added and shall read as follows:

(6) Accessory apartments on single-family lots, subject to §§ 200-31.2 and 200-45C of this chapter.

4. A new Section 200-31.2 shall be added and shall read as follows:

§ 200-31.2 Accessory apartments ~~dwelling units~~ on single-family lots.

A. Purpose. It is the purpose of this ~~section~~chapter to legalize and control existing accessory ~~apartment~~~~dwelling units~~ ~~on~~in single-family ~~lot~~homes and to regulate new conversions. It is ~~also~~ the intent ~~of this section~~ that neighborhoods zoned as single-family maintain their single-family character. ~~The adoption of This section~~chapter will further the Town's goal of providing a diversity of affordable rental housing in Ossining without ~~thereby~~ changing the low-density, predominately single-family character of the Town. ~~At the same time, This section~~chapter is intended to ease the financial burden of homeowners, particularly those with moderate or fixed incomes. It is the further purpose and intent of this ~~section~~chapter to provide for the health, safety and welfare of the inhabitants of the Town of Ossining and of the occupants of accessory ~~apartment~~~~dwelling units~~ and to ensure that said accessory ~~apartment~~~~dwelling units~~ meet minimum health, fire and safety standards.

B. Required standards.

(1) The Zoning Board of Appeals of the Town of Ossining ~~(the Board)~~ may permit the construction of an accessory ~~apartment~~~~dwelling unit~~ within an existing single-family home or within a detached accessory building on a single-family lot pursuant to the following standards. It shall be unlawful to use, establish, maintain, operate, occupy, rent or lease any portion of any premises as an accessory apartment for residential occupancy in the Town of Ossining without first having obtained an accessory apartment special dwelling unit permit. Failure or refusal to procure an accessory apartment special dwelling unit permit shall be deemed a violation of this chapter.

(a) Location. An accessory ~~apartment~~~~dwelling unit~~ shall be located only in that portion of ~~the principal dwelling~~a building for which there has been existed for at least three years prior to the date of application for a special permit. There must be a valid certificate of occupancy in place for ~~the premises for at least two~~three years prior to the application for an accessory apartment special dwelling unit permit or where there is proof, as determined by the Building Inspector, that said the portion of the buildingstructure was built prior to the requirement for a certificate of occupancy.

(b) Size of lot. The lot on which the accessory apartment is proposed shall be no less than the size required by the zoning district in which it is located.

(c) Architectural treatment. The architectural treatment of the structures on the lot shall be such as to portray the character of a single-family

lotdwelling. Only one main entrance will be permitted on the front side of the principal building; all other entrances shall be at the side or in the rear of the building(s). In addition, no more than one meter for each utility provided to the lotbuilding (i.e., gas, water, etc.) shall be permitted. Notwithstanding the above, if an accessory apartment is located in an accessory building on the lot, said accessory apartment may have its own metering.

- (d) Floor area. The habitableusable floor area of the accessory apartmentdwelling unit shall be a minimum of 300 square feet and a maximum of 800 square feet, andexcept that the area of the accessory apartmentdwelling unit shall also not exceed 33% of the habitableusable floor area of the principal building on the lot.
- (e) Bedrooms and occupancy. There shall be a maximum of two bedrooms in the accessory apartment in a single-family homedwelling unit. An accessory apartment in a detached accessory building shall be limited to an efficiency or studio housing unit, as defined in this chapter, and shall be limited to a maximum of two occupants.
- (f) Parking. Adequate off-street parking spaces in accordance with § 200-29 of this chapter shall be provided to prevent the parking in public streets of vehicles of any persons residing in the accessory apartmentdwelling unit.
- (g) Ownership. Either the main dwelling or the accessory apartmentdwelling unit must be owner-occupied as the owner's primarya principal residence. The owner shall not rent out its dwelling unit while on vacation.
- (h) Number of accessory apartmentsdwelling units per lot. There shall be no more than one accessory apartment nor more than a total of two dwelling units permitted per lot.
- (i) Permits. A building permit shall be obtained as otherwise required, and a certificate of occupancy must be issued prior to utilization of an accessory apartmentdwelling unit. No permit shall be issued until the Building Inspector, Town Engineer and/or the Westchester County DepartmentBoard of Health, whichever is appropriate, has issued written approval indicating that all applicable health, fire, building and safety requirements, including those relating to adequate sewage disposal capacity, have been met.

(j) Renewal permit. Prior to the issuance of any renewal permit, the Building Inspector, or his designee, shall inspect all areas of the building housing the accessory apartment to determine that there is compliance with all applicable laws, rules and regulations. No renewal permit shall be issued until the Building Inspector, or his designee, determines that there is full compliance with said laws, rules and regulations.

(2) ~~No accessory dwelling unit shall be permitted in an accessory building, and Garage space may not be used for an accessory apartmentdwelling unit unless the required parking on the lot can otherwise be provided.~~

C. Application for special permit; public hearing; term; renewal.

(1) Application for a special permit for an accessory ~~apartmentdwelling unit~~ shall be made to the Zoning Board of Appeals in accordance with the procedures set out in this section. The application shall consist of the following:

(a) A site plan indicating existing building and lot conditions and a dimensioned~~al~~ floor plan of the principal dwelling, any pertinent detached accessory building, and the proposed accessory apartmentdwelling unit.

(b) A location map showing the applicant's property and adjacent property and streets, the location of existing and proposed off-street parking, water supply and sewage disposal facilities, ingress and egress to the site and such other information as may be required by the Zoning Board of Appeals to determine compliance with the provisions of this section~~chapter~~.

(c) Application fee(s) as set forth in the Schedule of Fees promulgated by the Town Board. *Editor's Note: See Ch. A203, Fees.*

(2) Upon receipt of the application, the Board shall conduct at least one public hearing for every application for a special permit for an accessory ~~apartmentdwelling unit~~. The Board may, at its discretion, conduct a public hearing in connection with any renewal application. Legal notice of such hearing shall be published in the official newspaper of the Town of Ossining at least 10 days prior to the public hearing. In addition, the Town shall forward written notice of the date, time and place of the hearing and a brief statement describing the application to every owner of property within a

radius of 500 feet from the property lines of the lot which is the subject of the application not less than 15 nor more than 25 days prior to the date of such hearing.

- (3) The term of an initial permit shall be one year. Renewals shall be for three years. Applications for the renewal of special permits shall be made at least 90 days prior to expiration of the permit being renewed.
- (4) If any of the provisions set forth in this chapter are not met, and/or if ownership changes, the special permit shall be null and void.

D. Additional standards of Zoning Board of Appeals.

- (1) When considering an application for a special permit for an accessory ~~apartmentdwelling~~ unit, the Board shall apply the following standards, in addition to those general standards found in this chapter.

- (a) The use will not restrict the use of adjacent properties.
- (b) The use and the traffic generated by the use will not adversely affect the character of the neighborhood. ~~The following criteria shall be given consideration in the determination of whether or not the proposed use adversely affects the character of the neighborhood:~~
 - ~~[1] Impact upon neighboring property values.~~
 - ~~[2] Traffic generation by the proposed use.~~
- (c) ~~If The proposed use~~ will not endangers the health, safety or general welfare of the neighborhood or the community.

- (2) It is the Town's intent that neighborhoods zoned as single-family retain their single-family character. The Town recognizes that there may come a time when the number of accessory ~~apartmentdwelling~~ units in a ~~zoned~~ single-family zoned neighborhood will adversely affect the character thereof. The Zoning Board of Appeals shall therefore deny a special permit for an accessory ~~apartmentdwelling~~ unit should it find that the number of accessory apartments in a neighborhoodsuch units, including the one proposed, will adversely affect the character of a ~~zoned~~ single-family zoned neighborhood. This criteria for denial shall include, but not be limited to the circumstance where Board shall deny an accessory apartment special permit if three other such permits or approvals for accessory ~~apartmentdwelling~~ units in one family dwellings have been issued within a

radius of 500 feet of the property lines of the lot containing the proposed accessory ~~apartment~~dwelling unit.

- (3) The standards and provisions of all special uses as provided for in § 200-45C of the Code of the Town of Ossining shall be applicable to this special permit procedure to the extent that the same are not inconsistent therewith. Further, if any of the provisions of this section are found to be in conflict with § 200-45C, the provisions of this section shall be controlling.
- (4) As a condition to the issuance of an accessory ~~apartment~~dwelling unit permit, the Zoning Board of Appeals may impose such conditions as deemed proper and necessary upon the accessory ~~apartment~~dwelling unit, the principal single-family dwelling, any pertinent detached accessory building, ~~structure~~ and/or the property to preserve the character of the neighborhood and/or the health, safety and welfare of neighboring residents.

E. Reinspection. Accessory ~~apartment~~dwelling units which have been approved by the Zoning Board of Appeals shall be reinspected by the Building Inspector one year after issuance of the permit and every year thereafter. In the event the inspection discloses any noncompliance with or violations of the terms of this ~~section~~chapter, any condition of the permit, any state or local law, regulation or ordinance or, in the discretion of the Building Inspector, any condition which does or could pose a hazard to the health, welfare and safety of either the occupant(s) of the accessory ~~apartment~~dwelling unit, the main ~~building~~structure or any other members of the public, the Building Inspector shall report such findings in writing to the Zoning Board of Appeals. The Zoning Board of Appeals shall thereupon schedule a public hearing with due notice to determine whether the permit should be revoked based upon such noncompliance, violations or other condition(s) noted by the Building Inspector. Refusal to allow reinspection by the Building Inspector shall be a basis for revocation of the permit by the Zoning Board of Appeals after a public hearing.

~~E. Legislative review by Town Board.~~

~~In order to provide an assessment of this special permit procedure, its effect upon the Town and to determine whether or not this provision of law shall be continued, further amended or terminated, the Town shall review the same no later than two years subsequent to the date hereof.~~

F. Sale of dwelling unit; renewal of special permit.

In the event that a ~~lot~~dwelling with a valid special permit for an accessory ~~apartment~~dwelling unit is sold, the special permit shall lapse unless, within 90 days after the transfer of title, the new owner shall apply for renewal of the previous special permit under this ~~section~~chapter of the ~~previous special permit~~. If such application is timely made, the new owner shall not be deemed in violation of this ~~section~~chapter so long as the renewal application is pursued with due diligence. If such renewal application is granted, the new special permit shall run three years from the date of transfer of title. If, after transfer of title, a renewal application shall not be made within 90 days, any application thereafter made shall be treated as an initial application and any permit issued pursuant to said application shall be for a period of one year.

G. Boarders prohibited. No boarders shall be ~~permitted~~possible in either the principal dwelling unit or the accessory ~~apartment~~dwelling unit. A dwelling may not receive an accessory apartment special permit for a tourist home, rooming house or boarding house.

H. Special permit required for pre-existing units. All owners of accessory apartment~~s~~dwellings who have not previously obtained special permits for such accessory apartment~~s~~dwelling units located on~~within~~ their ~~lot~~dwellings shall apply to the Zoning Board of Appeals for a special permit within six months following the effective date of this ~~section~~chapter. If application is so made within said six-month period, the owner of the accessory apartment~~dwelling~~ shall not be deemed in violation of this ~~section~~chapter. If application to the Zoning Board of Appeals is not made within said six-month period, the owner of the accessory apartment~~dwelling~~ shall be deemed in violation of this chapter and shall be subject to the penalties provided herein.

I. Penalties for offenses. Any owner or builder, or any agent of either of them, who fails to secure a special permit for an accessory apartment~~dwelling unit~~, ~~as provided in this chapter~~, who allows occupancy of an accessory apartment~~dwelling unit~~, in violation of the provisions of this chapter or who constructs or causes to be constructed a dwelling with an accessory apartment~~dwelling unit~~ in violation of the provisions of this chapter shall be subject to § 200-43 of this chapter~~guilty of an offense punishable by a fine of not less than \$250 nor more than \$2,000 or imprisonment not to exceed 15 days, or by both such fine and imprisonment.~~

Section 4: Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, the Code of the Town of Ossining as adopted and amended from time to time thereafter is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 5: Numbering for Codification

It is the intention of the Town of Ossining and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Ossining; that the sections and sub-sections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 6: Separability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Town Board of the Town of Ossining that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part thereof is held inapplicable had been specifically exempt therefrom.

Section 7: Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by the Municipal Home Rule Law.