

LOCAL LAW 2 - 2023

A local law to amend Chapter 305 of the Tarrytown Code, add a new subsections to permitted accessory uses in all single-family residential districts of an Accessory Dwelling Unit

Section 1. Amending § 305-5 entitled “Word usage, terms defined” to add the following definition under subsection B:

ACCESSORY DWELLING UNIT or ADU

An accessory residential dwelling unit that provides independent living facilities for one or more persons, including a separate kitchen, bathroom, and sleeping area that is located either within the same structure as, or on the same lot as, a primary dwelling unit.

Section 2. Amending § 305-14 entitled “Residential R-80 Zone” Section “B” entitled “Permitted Accessory uses” to add a new subsection making Accessory Dwelling Units a permitted accessory use:

(15) Accessory Dwelling Unit

(a) Intent: The Village seeks to legalize and control existing accessory dwelling units in single-family residential zones and regulate new conversions or new construction of accessory dwelling units in single-family residential zones; to diversify housing while ensuring single-family residential zones maintain their character; to ease single-family homeowners’ financial burden by allowing a means of rental income, to provide for the health, safety and welfare of the Village of Tarrytown’s residents and the occupants of accessory dwelling units.

(b) Required standards. The Building Department shall grant a permit only to single family dwellings for the creation, legalization or construction of an accessory dwelling unit (ADU): (i) within or as an addition to an existing main building in all single-family residential zones (R-80, R-60, R-40, R-30, R-20, R-15, R-10, R-7.5 and R-5; (ii) within an existing detached accessory building in all single-family residential zones provided the existing accessory building meets all the requirements of this Chapter; and (iii) within a new detached accessory building that meets all the requirements of this Chapter only in the R-80, R-60, R-40, R-30, R-20 and R-15 residential zones, subject to any applicable building and fire code standards and subject to these standards:

- 1) Number of ADUs per lot: There shall be no more than one ADU per lot.
- 2) Owner-occupancy. The owner of the single-family residence lot must reside as the owner’s primary residence in either the main dwelling unit or the ADU.

- 3) Floor area: An ADU shall have a minimum habitable floor area of 300 square feet and a maximum habitable floor area of 1,000 square feet. Notwithstanding the foregoing, an ADU shall not have a habitable floor area of more than 50% of the habitable floor area of the lot's primary dwelling.
- 4) Bedrooms. The maximum number of bedrooms in an ADU shall be two, except that in R-10, R-7.5 and R-5 zones there shall be no more than a studio or one bedroom allowed in an ADU.
- 5) Nonconforming Main Building: Notwithstanding any other provision of this Chapter, an existing main building that is legally non-conforming with current dimensional or coverage regulations may be legally changed in use, in whole or in part, to an ADU provided that the dimensional non-conformity is not increased and provided the height of an existing building that fails to meet setback requirements is not increased.
- 6) Entrances. No new entrances to the street-facing façade of a main building may be added for the purpose of creating an ADU
- 7) Height of ADU. Notwithstanding any other provisions of this Chapter, the maximum building height shall be the lesser of: (1) 25 feet; or (2) the height of the one-family dwelling main building.
- 8) Minimum term of rental: The rental term of an ADU shall be for at least six months.
- 9) Parking: Single-family dwellings improved with an ADU shall have a minimum of a total of three off-street parking spaces with a minimum of one of the three off-street parking spaces designated for the ADU, except single-family dwellings located North of 119/White Plains Road and West of Broadway only require a minimum of a total of two off-street parking spaces.
- 10) Certificate of Owner Occupancy: The owner of the property shall certify to the Village, in the form of an affidavit provided by the Building Department that the owner resides at the single-family residence improved with an ADU as the owner's primary residence in either the main dwelling unit or the ADU. Such certification shall be made at the time of the initial application filed with the Building Inspector and after the sale or conveyance of the single family residence.

- 11) Adequacy of Septic System: If the lot is serviced by a septic system the owner must demonstrate that the existing septic system can handle the addition of any ADU by securing the necessary permits from the Westchester County Department of Health.
- 12) Land Use Board Review. No land use board review is necessary for an ADU permit that complies with the requirements in this subparagraph (b) except if: (i) (a) a new addition to an existing one-family dwelling is created for the ADU and the addition increases footprint, square footage or FAR triggering the requirement for Planning Board site plan approval under § 305-132(A)(1); (b) an existing garage is converted to an ADU resulting in the need for on-site parking triggering the requirement for Planning Board site plan approval under § 305-132(A)(2); and/or (c) there is a change, addition or modification to land or buildings designated as an historic district or historic landmark by the Village Board triggering the requirement for Planning Board site plan approval under § 305-132(A)(3); and/or (ii) Architectural Review Board approval under § 9-4(A)(4).

(c) Penalties for offenses.

- 1) Any owner or builder, or any agent of either of them, who fails to secure a permit for the construction of creation of ADU, who allows occupancy of an ADU without a certificate of occupancy for the ADU, or who constructs or causes to be constructed an ADU in violation of the provisions of this chapter shall be in violation of this chapter and subject to penalties under § 305-115 of this chapter.
- 2) It shall be unlawful to use, establish, maintain, operate, occupy, rent or lease any portion of any premises as an ADU in the Village of Tarrytown without first having obtained a permit and certificate of occupancy for the ADU from the Village of Tarrytown Building Department.
- 3) All ADU owners who have not previously obtained a permit and certificate of occupancy for an ADU located on their lots shall apply to the Building Department within six months following the effective date of this section (and if necessary, the Zoning Board of Appeals). If application is so made within said six-month period, the owner of the ADU shall not be deemed in violation of this section. If application is not made within said six-month period, the owner of the ADU shall be deemed in violation of this chapter and shall be subject to the penalties provided herein.

Section 3: Amending § 305-15 entitled “Residential R-60 Zone” Section “B” entitled “Permitted Accessory uses” to add a new subsection:

(15) Accessory Dwelling Unit in compliance with § 305-14(B)(15).

Section 4: Amending § 305-16 entitled “Residential R-40 Zone” Section “B” entitled “Permitted Accessory uses” to add a new subsection:

(15) Accessory Dwelling Unit in compliance with § 305-14(B)(15).

Section 5: Amending § 305-17 entitled “Residential R-30 Zone” Section “B” entitled “Permitted Accessory uses” to add a new subsection:

(15) Accessory Dwelling Unit in compliance with § 305-14(B)(15).

Section 6: Amending § 305-18 entitled “Residential R-20 Zone” Section “B” entitled “Permitted Accessory uses” to add a new subsection:

(15) Accessory Dwelling Unit in compliance with § 305-14(B)(15).

Section 7: Amending § 305-19 entitled “Residential R-15 Zone” Section “B” entitled “Permitted Accessory uses” to add a new subsection:

(15) Accessory Dwelling Unit in compliance with § 305-14(B)(15).

Section 8: Amending § 305-20 entitled “Residential R-10 Zone” Section “B” entitled “Permitted Accessory uses” to add a new subsection:

(15) Accessory Dwelling Unit in compliance with § 305-14(B)(15).

Section 9: Amending § 305-21 entitled “Residential R-7.5 Zone” Section “B” entitled “Permitted Accessory uses” to add a new subsection:

(15) Accessory Dwelling Unit in compliance with § 305-14(B)(15).

Section 10: Amending § 305-22 entitled “Residential R-5 Zone” Section “B” entitled “Permitted Accessory uses” to add a new subsection:

(15) Accessory Dwelling Unit in compliance with § 305-14(B)(15).

Section 11. Amending 305 Attachment 3 regarding list of “Permitted Accessory Uses” to add the following under Single-Family Residence Districts:

P. Accessory Dwelling Unit in compliance with § 305-14(B)(15).

Section 12: Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

Section 13: 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.