

Amended 5/25/2022 for consideration 6/2/2022

Local Law 4 of 2022
Accessory Dwelling Units
Amending Chapter 140, Zoning
of the Code of the Town of Rochester

Presented, Local Law 4-2022, Amending Chapter 140 of the Code of the Town of Rochester as follows: Be it enacted by the Town Board of the Town of Rochester as follows:

Section 1.

Pursuant to, and in accordance with, the provisions of the New York State Municipal Home Rule Law and the NYS General Municipal Law, Article 18, §808, the Town of Rochester Town Board amends Chapter 140, Zoning, to add a new section 140-13.1, Accessory Dwelling Units, of the Code of the Town of Rochester as follows.

§140-13.1 Accessory Dwelling Units

A. Purpose and intent.

It is the specific purpose of this law to aid the general welfare of the Town by providing a variety of housing opportunities; particularly:

- a. for our aging population to "age in place."
- b. to create housing expansion for our local workforce.
- c. to provide options for young and older families.
- d. to allow the more efficient use of the town's existing stock of dwellings and accessory structures.
- e. to provide economic support for resident families of limited income; and
- f. to protect and preserve property values while preserving the rural character of the town.

B. Definitions.

As specifically apply to this subsection

ACCESSORY DWELLING UNIT (ADU)-- A subordinate dwelling unit located either within a principal residential dwelling, (inclusive of garage if attached thereto), or within an approved detached accessory structure, having its own ingress and egress and providing independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation. All ADUs shall meet the requirements of habitable space as defined by the New York State Uniform Fire Prevention and Building Code.

FLOOR AREA, GROSS - The sum of the gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior faces of exterior walls or from the centerline of party walls separating two buildings, excluding cellar and basement areas used only for storage or for the operation and maintenance of the building

PRIMARY DOMICILE - A resident's true, principal, and permanent home and a legal construct used to determine where a resident votes, files lawsuits, pays taxes, claims benefits, and obliges governmental authority.

PRINCIPAL DWELLING - The primary residential building of a parcel arranged, intended, designed, or used as the living quarters, including kitchen facilities, for one or more families living independently of each other upon the premises.

HABITABLE SPACE - Space occupied within a dwelling unit for the purposes of living as defined by requirements of the NYS Building Code.

C. Authorization.

The Town Board authorizes the Code Enforcement Officer to issue a zoning determination to property owners per the provisions of this local law. All accessory dwelling units are subject to requirements for Residential Building Permits.

D. Zoning Districts.

Accessory Dwelling Units as defined herein shall be permitted in the AR-3, AB-3, R-1, R-2, R-5, H, and B zoning districts as a permitted accessory use to a principal permitted single- or two-family dwelling. To apply for a permit, the accessory dwelling unit shall be located on the same parcel as the principal residential dwelling. In the determination of permitting, the construction or conversion intended to create an accessory dwelling unit shall demonstrate that is clearly incidental and secondary to the primary residential dwelling. The accessory dwelling unit shall always be considered an accessory use and subordinate to the principal dwelling.

E. Lot requirements.

- I. The following lot requirements shall apply:
 1. ADUs shall not be subject to any additional density requirements. A detached structure or expansion of the footprint of the principal dwelling where an accessory dwelling unit is proposed shall conform with the setback, lot coverage, and height requirements of the zoning district in which it is located.
 2. Accessory dwelling units proposed where the principal dwelling is located on a lot non-conforming with regards to lot size may be permitted, subject to Site Plan Review.
 3. All other standards of the schedule of district regulations shall apply.

- II. Provisions for parcels large enough to accommodate multiple Principal Uses
 1. When constructing a new dwelling unit on lot that contains an existing dwelling unit, and where sufficient acreage exists to support multiple principal uses, the owner can specify whether the new unit is to be constructed under the provisions governing ADU's, or as an additional Principal Dwelling. Principal dwellings are subject to the bulk density requirements of the underlying zoning district where they are located.

F. Prohibitions.

Accessory dwelling units shall be prohibited:

1. As accessory uses to multifamily dwellings.
2. As accessory uses to commercial or industrial uses.
3. From receiving a permit for Short-Term Transient Rental Use, under the provisions of §140-26A.

G. Owner Occupancy.

The owner of the parcel on which an Accessory Dwelling Unit is located shall maintain their primary domicile in either the principal dwelling or the accessory dwelling unit.

H. Certificate of Occupancy.

1. An accessory dwelling unit may not be located on a parcel where a current building violation exists unless the legalization or creation of the Accessory Dwelling Unit will cure the violation.
2. All Accessory Dwelling Units shall be on a permanent foundation.

I. Maximum gross floor area.

An Accessory Dwelling Unit shall contain a minimum of 350 sq. ft and shall not exceed the gross floor area of the principal dwelling unit or 750 sq ft, whichever is less.

J. Number of Accessory Apartments.

A maximum of one accessory dwelling unit shall be permitted on each qualifying parcel. Additional dwelling(s) on a lot which meets area/bulk requirements shall be considered a principal dwelling unit and subject to the lot development standards for the zoning district in which it is located.

K. Construction.

Both the accessory dwelling unit and the principal dwelling shall meet the requirements of New York State Uniform Fire Prevention and Building Code and New York Department of Health Code. For the purposes of this code, accessory dwelling units shall have a maximum number of 2 bedrooms.

L. Water and Septic.

Ulster County Department of Health approval of the adequacy of septic must be obtained prior to the issuance of a Building Permit.

The water system shall connect to the system of the principal dwelling unless a letter is presented, signed and sealed by a licensed engineer certifying that such connection is not feasible. A new, adequate water source must be established prior to the issuance of a building permit.

M. Parking.

Off-street parking as required by Chapter §140-17 shall be provided, with a minimum of one space for the ADU and such parking shall not be located in the front yard setback. Additional driveways are discouraged where it is possible to use a single driveway. Any driveway that provides access to a single Dwelling Unit and a single associated ADU shall not be considered a shared driveway.

N. Cap of Accessory Dwelling Unit Permits

The Town Board shall have the ability to institute a cap on the number of permits issued on ADUs annually through resolution.

Section 2. Schedule of District Regulations Amendment

Chapter 140, Attachment 1, of the Code of the Town of Rochester entitled "Schedule of District Regulations" shall be amended to add in the column labeled Accessory Uses the use "Accessory Dwelling Units" in the following zoning districts: AR-3, AB-3, R-1, R-2, R-5, H, and B zoning districts.

Section 3. Severability

If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby

declares that it would have enacted the remainder of this Law even without such part, provision, or application.

Section 4. Effective Date

This local law shall become effective immediately upon the filing in the office of the New York Secretary of State pursuant to Section 27 of the Municipal Home Rule Law.