



Woodstock Planning and Zoning Commission

Chairman: Jeffrey A. Gordon, M.D.

Vice-Chairman: David Morse

Secretary: Jeffrey Marcotte

ZEO: Tina Lajoie, CAZEO

To: PZC
Tina Lajoie, CAZEO
Delia Fey, AICP, CAZEO

From: Jeffrey A. Gordon, M.D.

Date: July 6th, 2021

Re: New law in CT about accessory apartments

Public Act 21-29 (formerly known as House Bill 6107) is a set of new laws in CT regarding accessory apartments. Woodstock has been proactive over the years in permitting accessory apartments through a zoning permit process, where as there are other towns that require a special permit process.

The PZC made changes to the Zoning regulations about accessory apartments in 2014. Since that time, there has been an increasing interest among people in town for accessory apartments. As part of the PZC's updated efforts regarding affordable housing, including new requirements mandated by the State, the PZC should review and consider updating the Zoning Regulations regarding accessory apartments. One item for consideration is to increase the maximum allowed square footage of accessory apartments.

The current definition of an Accessory Apartment in the Zoning and the Subdivision Regulations is as follows:

A second dwelling unit, not to exceed the specified size in the standards for the applicable district, that is contained on the same lot as a single family residence and that is clearly subordinate to the main dwelling unit in terms of size and appearance.

The current Zoning Regulations are as follows:

Article IV, Section B (Agricultural and Single-Family Residential Uses in the Community District), Subsection 2, Items a iiiii-iv:

One accessory apartment shall be permitted per single family dwelling on lots of 1.0 acre or greater so long as apartment does not exceed 750 SF, and the lot meets all other requirements of these Regulations.

Approved lots on open space subdivisions or resubdivisions may have one accessory apartment if lot size is 0.75 acres or greater so long as apartment does not exceed 750 SF, and the lot meets all other requirements of these Regulations.

Article IV, Section C (Subdivisions), Subsection 3, Items a i:

One accessory apartment shall be permitted per single family dwelling provided the apartment does not exceed seven hundred fifty square feet (750 SF) in size and the lot meets all other requirements of these Regulations.

Article IV, Section H (Lake District Use), Subsection 2, Item a ii:

One accessory apartment shall be permitted per single family dwelling except on nonconforming lots provided the apartment does not exceed seven hundred fifty square feet (750 SF) in size, and the lot meets all other requirements of these Regulations.

The Zoning Regulations changes about accessory apartments include the following:

YEAR	ZONING REGULATIONS
2005	<p>Maximum = 900 square feet or 33% of the gross finished floor area of the primary residence in size, whichever is less.</p> <p>The lot meets all requirements of these Regulations.</p> <p>Single-family residential.</p>
2013	<p>Maximum = 33% of the gross finished floor area of the primary residence in size.</p> <p>Not allowed on non-conforming lots.</p> <p>The lot meets all requirements of these Regulations.</p> <p>Single-family residential.</p>
2014	<p>Maximum = 750 square feet.</p> <p>Minimum lot size = 1 acre.</p> <p>The lot meets all requirements of these Regulations.</p> <p>Single-family residential.</p>

What does the new state law that becomes effective on October 1st, 2021, require:

Definitions:

“Accessory apartment” means a separate dwelling unit that (A) is located on the same lot as a principal dwelling unit of greater square footage, (B) has cooking facilities, and (C) complies with or is otherwise exempt from any applicable building code, fire code and health and safety regulations.

“Affordable accessory apartment” means an accessory apartment that is subject to binding recorded deeds which contain covenants or restrictions that require such accessory apartment be sold or rented at, or below, prices that will preserve the unit as housing for which, for a period of not less than ten years, persons and families pay thirty per cent or less of income, where such income is less than or equal to eighty per cent of the median income.

What does the new state law that becomes effective on January 1st, 2022, require:

(1) Designate locations or zoning districts within the municipality in which accessory apartments are allowed, provided at least one accessory apartment shall be allowed as of right on each lot that contains a single-family dwelling and no such accessory apartment shall be required to be an affordable accessory apartment.

(2) Allow accessory apartments to be attached to or located within the proposed or existing principal dwelling, or detached from the proposed or existing principal dwelling and located on the same lot as such dwelling.

(3) Set a maximum net floor area for an accessory apartment of not less than thirty per cent of the net floor area of the principal dwelling, or one thousand square feet, whichever is less, except that such regulations may allow a larger net floor area for such apartments.

(4) Require setbacks, lot size and building frontage less than or equal to that which is required for the principal dwelling, and require lot coverage greater than or equal to that which is required for the principal dwelling.

(5) Provide for height, landscaping and architectural design standards that do not exceed any such standards as they are applied to single-family dwellings in the municipality.

(6) Be prohibited from requiring (A) a passageway between any such accessory apartment and any such principal dwelling, (B) an exterior door for any such accessory apartment, except as required by the applicable building or fire code, (C) any more than one parking space for any such accessory apartment, or fees in lieu of parking otherwise allowed by section 8-2c of the general statutes, (D) a familial, marital or employment relationship between occupants of the principal dwelling and accessory apartment, (E) a minimum age for

occupants of the accessory apartment, (F) separate billing of utilities otherwise connected to, or used by, the principal dwelling unit, or (G) periodic renewals for permits for such accessory apartments.

(7) Be interpreted and enforced such that nothing in this section shall be in derogation of (A) applicable building code requirements, (B) the ability of a municipality to prohibit or limit the use of accessory apartments for short-term rentals or vacation stays, or (C) other requirements where a well or private sewerage system is being used, provided approval for any such accessory apartment shall not be unreasonably withheld.

(8) The as of right permit application and review process for approval of accessory apartments shall require that a decision on any such application be rendered not later than sixty-five days after receipt of such application by the applicable zoning commission, except that an applicant may consent to one or more extensions of not more than an additional sixty-five days or may withdraw such application.

(9) A municipality shall not (1) condition the approval of an accessory apartment on the correction of a nonconforming use, structure or lot, or (2) require the installation of fire sprinklers in an accessory apartment if such sprinklers are not required for the principal dwelling located on the same lot or otherwise required by the fire code.

(10) A municipality, special district, sewer or water authority shall not (1) consider an accessory apartment to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless such accessory apartment was constructed with a new single-family dwelling on the same lot, or (2) require the installation of a new or separate utility connection directly to an accessory apartment or impose a related connection fee or capacity charge.

(11) If a municipality fails to adopt new regulations or amend existing regulations by January 1, 2023, for the purpose of complying with the provisions of subsections (a) to (d), inclusive, of this section, and unless such municipality opts out of the provisions of said subsections in accordance with the provisions of subsection (f) of this section, any noncompliant existing regulation shall become null and void and such municipality shall approve or deny applications for accessory apartments in accordance with the requirements for regulations set forth in the provisions of subsections (a) to (d), inclusive, of this section until such municipality adopts or amends a regulation in compliance with said subsections. A municipality may not use or impose additional standards beyond those set forth in subsections (a) to (d), inclusive, of this section.

(12) Notwithstanding the provisions of subsections (a) to (d), inclusive, of this section, the zoning commission or combined planning and zoning commission, as applicable, of a municipality, by a two-thirds vote, may initiate the process by which such municipality opts out of the provisions of said subsections regarding allowance of accessory apartments, provided such commission: (1) First holds a public hearing in accordance with the provisions of section 8-7d of the general statutes on such proposed opt-out, (2) affirmatively decides to opt

out of the provisions of said subsections within the period of time permitted under section

8-7d of the general statutes, (3) states upon its records the reasons for such decision, and (4) publishes notice of such decision in a newspaper having a substantial circulation in the municipality not later than fifteen days after such decision has been rendered. Thereafter, the municipality's legislative body or, in a municipality where the legislative body is a town meeting, its board of selectmen, by a two-thirds vote, may complete the process by which such municipality opts out of the provisions of subsections (a) to (d), inclusive, of this section, except that, on and after January 1, 2023, no municipality may opt out of the provisions of said subsections.

How Woodstock's regulations compare with the new state provisions:

1	Already allowed via zoning permits in the Community and Lake Districts. Consider wording regarding no requirement for accessory apartments to be affordable accessory apartments.
2	Zoning Regulations do not prohibit such.
3	Need to change the Zoning Regulations to allow for the new, default maximum SF, per state law.
4	Zoning Regulations regarding having a minimum of 1 acre lot size. Need to change wording so as to allow for minimum lot size in subdivisions.
5	Already in the Zoning Regulations.
6	Need to reference state law.
7	Need to reference state law.
8	Need to reference state law.
9	Need to reference state law.
10	Need to reference state law.
11	Not applicable because the PZC is addressing the issue.
12	Not applicable because the PZC is addressing the issue.

A proposal for text amendments in order to facilitate discussion and decision making:

Article II:

Accessory Apartment: A second dwelling unit, not to exceed the specified size in the standards for the applicable district, that is contained on the same lot as a single family residence, ~~and~~ that is clearly subordinate to the main dwelling unit in terms of size and appearance, ~~and that is as defined by CGS 8-2 as may be amended.~~

Article IV, Section A:

6. Accessory Apartments:

- a. One accessory apartment shall be permitted per single family dwelling only in those zoning districts permitted by these Regulations , except on nonconforming lots, and according to the provisions of CGS 8-2 as may be amended.
- b. Accessory apartments may be attached to or located within the proposed or existing principal dwelling, or detached from the proposed or existing principal dwelling and located on the same lot as such dwelling.
- c. The maximum net floor area of an accessory apartment shall be thirty-three (33%) of the net floor area of the principal dwelling or one thousand square feet (1000 SF), whichever is less, so long as the lot meets all other requirements of these Regulations.
- d. The lot on which an accessory apartment is to be built must have a minimum of one (1) acre.
- e. The lot on which an accessory apartment is to be built must meet the requirements for frontage, setbacks, lot coverage, height restrictions, and all other requirements of these Regulations, for the zoning district in which the accessory apartment is to be built, including the requirements for an approved subdivision lot.
- f. These regulations shall not limit the ability of the Town to prohibit or to regulate the use of accessory apartments for short-term rentals or vacation stays.

Article IV, Section B, Subsection 2 a:

- ~~iii. One accessory apartment shall be permitted per single family dwelling on lots of 1.0 acre or greater so long as apartment does not exceed 750 SF, and the lot meets all other requirements of these Regulations.~~
- ~~iv. Approved lots on open space subdivisions or resubdivisions may have one accessory apartment if lot size is 0.75 acres or greater so long as apartment does not exceed 750 SF, and the lot meets all other requirements of these Regulations.~~

[Note that items v-vii will need to be renumbered]

Article IV, Section C, Subsection 3 a:

- i. No more than one single family dwelling or one single family dwelling with an accessory apartment ~~as provided below~~ shall be allowed on each lot. ~~One accessory apartment shall be permitted per single family dwelling provided the apartment does not exceed seven hundred fifty square feet (750 SF) in size and the lot meets all other requirements of these Regulations.~~

[Note that items ii-iv will need to be renumbered]

Article IV, Section H, Subsection 2 a:

- ~~ii. One accessory apartment shall be permitted per single family dwelling except on nonconforming lots provided the apartment does not exceed seven hundred fifty square feet (750 SF) in size, and the lot meets all other requirements of these Regulations.~~

[Note that items iii-iv will need to be renumbered]