

**BOROUGH OF SADDLE RIVER
BERGEN COUNTY, NEW JERSEY**

ORDINANCE NO. 19-963-C

**AN ORDINANCE TO AMEND AND SUPPLEMENT THE
“CODE OF THE BOROUGH OF SADDLE RIVER” BY
ADDING A NEW ARTICLE XIV WHICH WILL ESTABLISH
ALLOWANCE FOR ACCESSORY APARTMENT UNITS IN
THE R-1 ZONE DISTRICTS IN THE BOROUGH OF SADDLE
RIVER.**

BE IT ORDAINED by the Mayor and Council of the Borough of Saddle River, in Bergen County, New Jersey, that it does hereby supplement and amend Chapter 210 of the Code of Borough of Saddle River as follows:

Section 1. New Article XIV, ACCESSORY APARTMENTS is added as follows:

§210-69. Purpose. This Accessory Apartments Article is hereby enacted for the purpose of providing additional opportunities for low and moderate-income housing in the Borough of Saddle River by permitting accessory apartments in certain designated zones within the Borough.

§210-70. Definitions. As used in this article, the following terms shall have the meanings indicated:

ACCESSORY APARTMENT means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance which is created to be occupied by a low or a moderate-income household. The accessory apartment may be created within an existing dwelling unit, may be created within an existing structure on the lot or be an addition to an existing home or accessory building.

LOW AND MODERATE INCOME ACCESSORY APARTMENT UNIT means an accessory unit deed restricted for occupancy by a low or moderate-income household as defined by Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. (“UHAC”), and New Jersey Council on Affordable Housing (COAH) Prior Round regulations, N.J.A.C. 5:93-1 et seq..

§210-71. Accessory Apartment Units.

A. General Requirements and Conditions. Accessory apartments shall be permitted as a conditional use in the R-1 Zone subject to site plan approval by the Planning Board. All accessory apartment units shall meet the following minimum standards and conditions:

- (1) The area and bulk requirements of the zone in which the accessory apartment is created shall be met.
- (2) Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all building codes.
- (3) The accessory apartment shall be rented only to a household which is either a low or moderate income household at the time of initial occupancy of the unit.
- (4) The accessory apartment shall, for a period of at least 10 years from the date of the issuance of a certificate of occupancy, be rented only to a low or moderate income household as is defined by applicable COAH and UHAC regulations at the time of initial occupancy of the unit.
- (5) Rents of accessory apartments shall be affordable to low and moderate income households as per COAH and UHAC regulations, or by Court Order, and shall include a utility allowance.
- (6) Rent increases shall be in accordance with COAH or Court approved percentages.
- (7) No more than 10 accessory apartments shall be permitted in the Borough to address the Borough's fair share obligation.
- (8) There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale within the requirements of Subsections 3, 5, 6 and 7 above.
- (9) Each accessory apartment shall have living/sleeping space, cooking facilities, a kitchen sink and complete sanitary facilities for the exclusive use of its occupants. It shall consist of no less than two rooms, one of which shall be a full bathroom.
- (10) The accessory apartment shall have a separate door with direct access to the outdoors.
- (11) The potable water supply and sewage disposal system for the accessory apartment unit shall be adequate to service the unit.
- (12) During the period in which affordability controls are in place, the accessory apartment shall be affirmatively marketed to the housing region in accordance

with applicable COAH and UHAC regulations, as well as subsection 11-7.35, Affirmative Marketing of Affordable Housing units.

- (13) Accessory apartment units may be located in an existing accessory building so long as the existing building footprint of the building is maintained. Any additions to a principal or accessory building to accommodate an accessory unit shall conform to the setback requirements for principal buildings in the district.
- (14) New freestanding accessory buildings containing accessory apartment units shall conform to the setback requirements for principal buildings in the district.
- (15) Accessory apartment units are exempt from bedroom mix requirements in N.J.A.C. 5:93-7.3.
- (16) To increase viability of the Borough's accessory apartment program, and to help subsidize the physical creation of accessory apartment units, the Borough will increase the minimum \$10,000 per accessory apartment required by N.J.A.C. 5-93-5.9(a)(2) by providing \$25,000 for a moderate income accessory apartment unit, \$35,000 for a low income accessory apartment unit and \$50,000 for a very low income accessory apartment unit.
- (17) In the case of an accessory apartment created illegally or without proper permits which the property owner desires to legitimize as an accessory apartment under this article, all of the requirements of this article in addition to meeting COAH criteria shall apply, except that no subsidy needs to be provided by the municipality.

B. Other requirements.

- (1) The lot must contain a conforming principal dwelling except as otherwise permitted, Nonconforming Uses, Building and Structures.
- (2) The total number of parking spaces required shall be met on site in compliance with RSIS for the principal dwelling and accessory apartment. The accessory apartment parking demand is calculated using the "Garden Apartment" classification. If parking for an accessory apartment is added, screening is required sufficient to minimize the visual impact on abutters, such as evergreen or dense deciduous plantings, walls, fences, or a combination.
- (3) Exterior alterations are permitted provided they are in keeping with the architectural integrity of the structure, and the look, character and scale of the surrounding neighborhood as viewed from the street, including, but not limited to, the following considerations:

- a. The exterior finish material should be the same or visually consistent in type, size, and placement, as the exterior finish material of the remainder of the building;
- b. The roof pitch should be consistent with the predominant roof pitch of the remainder of the building;
- c. Trim should be consistent in type, size, and location as the trim used on the remainder of the building;
- d. Windows should be consistent with those of the remainder of the building in proportion and orientation;
- e. Exterior staircases should be designed to minimize visual intrusion and be complementary to the existing building.

§210-72. Administrative Entity.

The Borough's designated Administrative Agent is the entity that will administer the Borough's accessory apartment program. The administrative agent shall administer the program in accordance with applicable COAH and UHAC regulations and pursuant to the following procedures and requirements:

- A. The administrative responsibilities of the Administrative Agent include, but are not limited to, advertising, income qualifying prospective renters, setting rents and annual rental increases, maintaining a waiting list, distributing the subsidy, securing the securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the accessory unit program.
- B. Applicants for accessory apartment units shall submit required application forms and documentation directly to the Borough's Zoning Officer, who shall transmit application material to the Borough's Administrative Agent. The Borough's Administrative Agent shall only approve an application for an accessory apartment unit if the project is in conformance with applicable COAH and UHAC requirements, the Borough's Zoning Ordinance and Development Regulations, any applicable Court orders or Court approved agreements, and this section. All approvals or denials shall be in writing with the reasons clearly stated.
- C. In accordance with applicable COAH or UHAC requirements, the Borough shall subsidize the physical creation of a low and moderate-income accessory apartment unit in accordance with current COAH and UHAC minimum requirement or such additional amount as determined necessary by the Borough or the Court to create either a low and moderate-income unit meeting COAH and UHAC requirements. Prior to the grant of

such subsidy, the property owner shall enter into a written agreement with the Borough ensuring that; (1) the subsidy shall be used to create the accessory apartment unit; and (2) the unit shall meet the requirements of this Ordinance and all applicable COAH and UHAC regulations.

§210-73. Submission Requirements and Application Procedures.

Applicants for the creation of an accessory apartment unit shall submit an application for a development permit and the required application information to the Borough's Zoning Officer, who shall submit a copy of the application to the Borough's Administrative Agent, the administrative entity for the program.

- A. Applicants shall submit the same information required for an application for a single family dwelling, along with the following additional requirements:
- (1) For an accessory apartment unit located within a principal building, a sketch of the floor plan(s) of the unit showing the location, size and relationship to both the accessory apartment unit and the primary dwelling unit in the building.
 - (2) For an accessory apartment unit located in an accessory building, the floor plan(s) of the accessory apartment unit and for all other rooms and building elements in the accessory building not used for residential purposes and their use (i.e. storage, garage, etc.).
 - (3) Elevations showing any new construction and modifications of any exterior building facades to which changes are proposed.
 - (4) A site development sketch showing the location of the principal building and accessory buildings, all property lines, proposed additions if any, along with the minimum building setback line, the required parking spaces for both dwelling units, and any site conditions which might affect development.
- B. The Zoning Officer shall process the application in accordance with normal procedures. The issuance of a development permit or any affirmative action by a municipal agency shall be preceded by or conditioned upon approval by the Borough's Administrative Agent pursuant to this section.

§210-69. Conversion of Existing Accessory Apartment Unit.

Accessory apartment units created prior to the adoption of this subsection or without proper permits may be converted to a low and moderate-income accessory unit under the provisions of this section consistent with N.J.A.C. 5:93-5.9 of COAH's Prior Round regulations. All the requirements of this section and applicable COAH and UHAC regulations shall apply, except that the Borough shall not provide a subsidy unit.

Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Saddle River, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Saddle River are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. This ordinance shall take effect upon its passage, publication, filing with the County of Bergen, and entry of final judgement of compliance and repose.



Joy Convertini, Clerk



Hon. Albert J. Kurpis, Mayor

Introduced: January 22, 2019

Adopted: February 25, 2019