

**Ordinance Introduced in First Reading April 24;
Public Hearing Tuesday, June 12, 2018 at 7:30 p.m.**

18-006 D

**BOROUGH OF RUMSON
MONMOUTH COUNTY**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF
RUMSON BY AMENDING CHAPTER XXII, DEVELOPMENT
REGULATIONS, ESTABLISHING THE REQUIREMENTS FOR
ACCESSORY APARTMENT UNITS IN THE R-1 AND R-2 ZONE
DISTRICTS IN THE BOROUGH OF RUMSON.**

PURPOSE

The purpose of this Ordinance is to establish regulations and standards governing the development of low and moderate income accessory apartment units in the Borough's R-1 and R-2 Zones. The Ordinance is designed to regulate low and moderate-income accessory apartment units in a manner consistent with the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. ("FHA"), 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.

BE IT ORDAINED by the Mayor and Council of the Borough of Rumson, in the County of Monmouth, that it does hereby supplement and amend Chapter XXII of the Code of the Borough of Rumson as follows:

Section 1. Chapter 22-2.4, Definitions, the definition of "Accessory Unit" shall be replaced in its entirety by the following, and the new definition of "Very Low, Low and Moderate Income Accessory Apartment Unit" shall be added as follows:

ACCESSORY APARTMENT UNIT means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance. An accessory unit may be created within an existing or new single-family residential dwelling, may be created within an existing or new accessory building on a lot containing a single-family dwelling, or be an addition to an existing single-family dwelling or accessory building.

VERY LOW, LOW AND MODERATE INCOME ACCESSORY APARTMENT UNIT means an accessory unit deed restricted for occupancy by a very low, 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..

Section 2. Chapter 22, Development Regulations, of the code of the Borough of Rumson is hereby amended to delete existing Section 22-6.9 in its entirety and replace it with the following new Section 22-6.9:

22-6.9 ACCESSORY APARTMENT UNITS

- a. *General Requirements and Conditions.* Accessory Apartment units shall be permitted as a conditional use in the R-1 and R-2 Zone Districts, provided that the use and buildings shall adhere to the following minimum standards and conditions:
 1. No more than one (1) accessory apartment unit shall be permitted.
 2. The accessory apartment unit shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all local building codes.
 3. An accessory apartment unit 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 very low, low or moderate income qualified household as is defined by applicable Council on

Affordable Housing (“COAH”) and Uniform Housing Affordability Controls (“UHAC”) regulations at the time of initial occupancy of the unit.

4. Rents of accessory apartment units shall be affordable to very low, low and moderate income households as per applicable COAH and UHAC regulations, or by Court Order, and shall include a utility allowance.
5. Rent increases shall be in accordance with COAH or Court approved percentages.
6. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory unit is located running with the land and limiting its subsequent rental or sale within the requirements of paragraphs (2), (3), (4) and (5) above.
7. Each accessory apartment unit 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.
8. The accessory apartment unit shall have a separate door with direct access to the outdoors.
9. The potable water supply and sewage disposal system for the accessory apartment unit shall be adequate to service the unit.
10. During the period in which affordability controls are in place, the accessory apartment unit shall be affirmatively marketed to the housing region in accordance with applicable COAH and UHAC regulations, as well as subsection 22-7.35, Affirmative Marketing of Affordable Housing units.
11. 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.
12. New freestanding accessory buildings containing accessory apartment units shall conform to the setback requirements for principal buildings in the district.
13. Accessory Apartment units are exempt from bedroom mix requirements in N.J.A.C. 5:93-7.3.
14. To increase the 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.

b. *Other Requirements.*

1. All standards and requirements of the zone district, except as modified by this section, shall apply.
2. The lot must contain a conforming principal dwelling except as otherwise permitted pursuant to subsection 22-7.3, Nonconforming Uses, Buildings and Structures.
3. 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.

4. 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.
- c. *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:
 1. The administrative responsibilities of the Administrative Agent includes, but is 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.
 2. 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.
 3. In accordance with applicable COAH or UHAC requirements, the Borough shall subsidize the physical creation of a very low, low and moderate-income accessory apartment unit in accordance with current COAH and UHAC minimum requirements 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.
- d. *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.

1. Applicants shall submit the same information required for an application for a single family dwelling, along with the following additional requirements:
 - a) 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.
 - b) 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.).
 - c) Elevations showing any new construction and modifications of any exterior building facades to which changes are proposed.
 - d) 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.
2. 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.

e. *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 3. Sub-paragraph d, "Conditional Uses", in subsection 22-5.4, Regulations Controlling the R-1 Residential Zone District, is hereby amended to replace the existing conditional use of "Accessory Units" with the following conditional use:

5. Accessory Apartment Units

Section 4. Sub-paragraph d, "Conditional Uses", in subsection 22-5.5, Regulations Controlling the R-2 Residential Zone District, is hereby amended to replace the existing conditional use of "Accessory Units" with the following conditional use:

5. Accessory Apartment Units

Section 5. If any section, subsection, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

Section 6. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Introduced: April 24, 2018