

**LAFAYETTE TOWNSHIP  
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE 2016-20

AN ORDINANCE OF THE TOWNSHIP OF LAFAYETTE, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF LAFAYETTE TO ESTABLISH “AFFORDABLE ACCESSORY APARTMENTS” AS PERMITTED ACCESSORY USES IN THE R-5.0, R-4.0 AND R-2.5 ZONES IN ACCORDANCE WITH LAFAYETTE TOWNSHIP’S AFFORDABLE HOUSING OBLIGATION AND THE 2016 HOUSING PLAN ELEMENT AND FAIR SHARE PLAN

**WHEREAS**, the Township of Lafayette seeks to advance the purpose of addressing its affordable housing obligations in a manner consistent with appropriate and acceptable housing techniques and for the purpose of providing a variety of housing choices as Identified in the Lafayette Township 2016 Housing Plan Element and Fair Share Plan,

**NOW, THEREFORE, BE IT ORDAINED**, that the General Ordinances of the Township of Lafayette are hereby amended, as follows:

**SECTION 1.** Amend “Chapter XII Land Use,” by adding the following new Section “12-22 Affordable Accessory Apartments,” as follows:

§ 12-22 Affordable Accessory Apartments

§ 12-22.1 Findings and purpose.

The purpose of this article is to provide housing opportunities to fulfill the Lafayette Township's affordable housing obligation. The intent is to encourage the creation of affordable accessory apartments within new or existing dwellings in Lafayette Township.

§ 12-22.2 Apartment within principal dwelling or accessory structure permitted.

In all residential zones an affordable accessory apartment may be created within a principal dwelling or in an accessory structure located on the same lot as the principal dwelling, subject to the standards set forth herein.

§ 12-22.3 Preference for low- and moderate-income households.

The affordable accessory apartment shall be occupied by a low- or moderate-income household as defined in the Substantive Rules of the New Jersey Council on Affordable Housing, N.J.A.C. 5:93-1.1 et seq., as supplemented and amended.

§ 12-22.4 Number of dwelling units.

No lot shall contain more than two dwelling units. A lot shall contain a principal dwelling unit and not more than one affordable accessory apartment which may be located in the principal residence or in an accessory structure.

§ 12-22.5 Minimum lot area.

An affordable accessory apartment shall be permitted within a principal dwelling, provided that the lot conforms to the area and bulk requirements of the residential zone district in which it is located. If the affordable apartment is to be located in an accessory structure, the lot shall be at least the minimum lot size for conventional development in the zone in which the unit is located, and the structure containing the affordable unit shall conform to the bulk standards for an accessory structure.

#### § 12-22.6 Design standards.

An affordable accessory apartment shall be subject to the following design standards:

- A. The floor area of an affordable accessory apartment shall not comprise of more than 25% of the aggregate floor area of the dwelling in which it is located, except that an affordable unit located in an accessory structure on the same lot as the principal dwelling shall not exceed 1,000 square feet of floor area. In no case shall an accessory apartment contain less than 350 square feet of floor area.
- B. Access to any affordable accessory apartment shall be provided with an exterior entrance separate from the principal dwelling entrance.
- C. There shall be no sign, separate driveway access, separate exterior entrance or other visible evidence of an accessory apartment which is observable from any abutting street.
- D. Off-street parking shall be provided for any vehicles used by the occupants of the affordable accessory apartment. A minimum of two parking spaces shall be provided for each dwelling unit on the lot. On-street parking is prohibited.
- E. The affordable accessory unit shall include living/sleeping space, cooking facilities and a complete sanitary facility for the exclusive use of its occupants. It shall consist of not less than two rooms, one of which shall be a full bathroom, but shall have no more than two bedrooms.
- F. The dwelling structure, if occupied by two households, shall comply with all requirements for a two-family dwelling in accordance with the New Jersey Building Code<sup>(1)</sup> and all other applicable laws and housing regulations of the state and Township.

#### § 12-22.7 Subsurface sewage disposal.

Prior to the issuance of a construction permit for any work related to the creation of an affordable accessory apartment within an existing structure or by an addition to an existing dwelling, the owner of the dwelling shall obtain a determination from the Township Board of Health as to whether modifications to any individual subsurface sewage disposal system will be necessary by reason of the creation of the accessory apartment. Any required modifications to such a system shall be made in compliance with all applicable laws and regulations.<sup>(1)</sup>

#### § 12-22.8 Permits.

An affordable accessory apartment shall not be occupied except in accordance with a currently valid affordable accessory apartment permit issued by the Zoning Official.

- A. Every affordable accessory apartment permit shall be valid for a term ending on December 31 of the year in which it is issued and shall, upon application, be renewed annually, provided that the accessory apartment is occupied by a low- or moderate-income household as required by § 12-22.3. However, an initial permit or any renewal thereafter shall expire immediately in the event that the unit is vacated or a change occurs in the household occupying the unit which renders the occupant ineligible in accordance with § 12-22.3.
- B. If an affordable accessory apartment permit expires by reason of Subsection A above, the affordable accessory apartment shall be vacated and shall not again be occupied unless and until a new permit is applied for and issued by the Zoning Official.
- C. Application for an affordable accessory apartment permit shall be made upon a form provided by the Zoning Official. The application shall require a certification that the above standards and conditions are in effect. Prior to the issuance of an affordable accessory apartment permit, the owner-occupant of the dwelling or, in the event that the dwelling is leased, the owner and tenant of the dwelling shall execute an affordable accessory apartment occupancy agreement with the Township prepared by the Township in recordable form which shall provide that the affordable

accessory apartment shall be occupied only in accordance with the provisions of a currently valid affordable accessory apartment permit and that the Township may take appropriate legal action to enforce the provisions of the agreement.

D. An annual renewal application shall be submitted to the Township Clerk by January 15 of each year, which application shall include a certification by the owner of the affordable accessory apartment that the above standards and conditions are in effect and that the household occupying the affordable accessory apartment remains income qualified for occupancy of the affordable accessory apartment. If occupancy has changed during the prior year, the owner shall furnish evidence of income qualification for the household occupying the affordable accessory apartment in the annual renewal application.

§ 12-22.9 Deed restrictions.

Upon approval of an application to create an affordable accessory apartment, the Township, on behalf of the property, shall file a deed recorded in the Sussex County Clerk's office containing a restriction in the form adopted by COAH and set forth in N.J.A.C. 5.93-9.2, Appendix E, to the effect that the unit shall remain available and affordable to a low- or moderate-income household for a period of at least 10 years. The county filing fee is to be paid by the owner of the property. If the affordable accessory apartment is not occupied by a low- or moderate-income household as required by § 12-22.3, it shall be removed and the structure shall comply with all the requirements for a single-family detached dwelling.

§ 12-22.10 Submission of plans.

The applicant shall provide a plan for the proposed construction which provides sufficient information to determine that all ordinance requirements will be satisfied.

§ 12-22.11 Number of affordable accessory apartments.

The maximum number of affordable accessory apartments permitted under this article shall be the number that the Township is permitted to apply toward its fair share obligation of low- and moderate-income housing in accordance with the applicable regulations of the New Jersey Council on Affordable Housing.

§ 12-22.12 Waiver of fees.

Building permit fees and all similar Township fees shall be waived in all cases involving affordable accessory apartment development under this article.

**SECTION 2.** Amend Chapter 13, "Zoning," § 13-8, R-5.0, R-4.0 and R-2.5 Residential Districts, subsection 13.8, "Permitted Accessory Uses, by adding the following new subsection 18-8.3 "f. Affordable accessory apartments."

**SECTION 3.** Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason by any Court of competent jurisdiction, such provision(s) shall be deemed severable and the remaining portions of this Ordinance shall remain in full force and effect.

**SECTION 4.** All ordinances or parts of ordinances or resolutions that are inconsistent with the provisions of this Ordinance are repealed to the extent of such inconsistency.

**SECTION 5.** This ordinance may be renumbered for codification purposes.

**SECTION 6.** The Township Clerk is directed to give notice at

least ten days prior to the hearing on the adoption of this Ordinance to the County Planning Board and to all others entitled pursuant to the provisions of N.J.S.A. 40:55D-15. The Township Clerk is further directed to refer this Ordinance to the Township Land Use Board, pursuant to N.J.S.A. 40:55D-64. Upon the adoption of this Ordinance, after public hearing, the Township Clerk is further directed to publish notice of the passage and to file a copy of this Ordinance, as finally adopted, with the Sussex County Planning Board, as required by N.J.S.A. 40:55D-16.

**SECTION 7.** This ordinance shall take effect after publication and passage according to law.

#### NOTICE

The above entitled Ordinance was introduced and passed at first reading by the Lafayette Township Committee at a meeting held on November 1, 2016 and after publication and a public hearing was finally adopted by the Lafayette Township Committee at a meeting held on December 6, 2016.

Mayor:

Municipal Clerk: