

BOROUGH OF CRESSKILL

ORDINANCE NO. 10-20-1399

AMEND CHAPTER 275, ZONING,
ARTICLE XXXV – ACCESSORY APARTMENT PROGRAM

ARTICLE XXXV. Accessory Apartment Program

§ 275-153. Purpose.

The purpose of this article is to assist the Borough in meeting its state-mandated affordable housing obligation by creation of opportunities to provide for low- and moderate-income housing.

§ 275-154. Definitions.

For the purposes of this article, the following terms shall have the meanings indicated:

ACCESSORY APARTMENT

A second dwelling unit on a lot containing a single-family dwelling, which existed at the time of the adoption of this article, which second unit may be located within a principal structure, added to a principal structure or located in a separate accessory building. The creation of such a dwelling unit shall be clearly incidental to the primary use of the property as a single-family dwelling and shall in no way confer upon the property owner any future rights to subdivide the existing lot in order to place each unit on a separate lot unless such a subdivision and the structures involved could conform to all municipal zoning standards. Accessory apartments shall conform to the requirements of the New Jersey Council on Affordable Housing.

§ 275-155. Development standards.

All accessory apartments shall comply with the following:

- A. Accessory apartments shall be a permitted accessory use in the R10 Zone only.
- B. Accessory apartments shall conform to all of the bulk requirements of the R-10 zone. For the purposes of this article, detached accessory apartments shall be considered structures and accessory apartments attached to a principal dwelling shall be considered a principal structure.
- C. The minimum lot size for accessory apartments shall be 10,000 square feet; except that where a property which is less than 10,000 square feet already contains an existing accessory structure which can be converted into an otherwise conforming accessory apartment without increase in its building footprint, such a unit can be counted as a qualifying accessory apartment, subject to all of the provisions and limitations specified herein.
- D. Accessory apartments shall comply with all applicable codes and standards of the State of New Jersey and the Borough of Cresskill. Each apartment shall contain at least 500 square feet of gross floor area, a minimum of two rooms and shall also contain a bathroom and kitchen facilities. Accessory apartments shall also have a separate entrance and, where attached to a principal structure, shall not have direct internal access between the dwelling units.

E. At the time of initial occupancy, accessory apartments shall be rented only to a household which is either a low- or moderate-income household in accordance with the rules and definitions of the New Jersey Council on Affordable Housing (COAH). Rents shall be affordable to low- and moderate-income households and include appropriate utility allowances, in accordance with COAH regulations. A minimum of twenty percent of the accessory apartments created shall be reserved for low-income households, and a maximum of eighty percent shall be reserved for moderate-income households. Cresskill Borough's current COAH obligation is six such units. The distribution of low and moderate income accessory apartments shall be made on a first come first served basis; however at least one low income unit must be constructed prior to the completion of construction of each block of five accessory apartments.

F. Properties containing accessory apartments shall be deed restricted to ensure that the accessory apartment shall be rented only to a low- or moderate-income household for a period of at least 10 years from issuance of a certificate of occupancy for the accessory apartment. Said deed restriction shall run with the land and shall be assignable to all successors or heirs.

G. Each accessory apartment shall be connected to adequate potable water and sewage disposal systems.

H. Accessory apartments shall be affirmatively marketed in accordance with COAH regulations and Cresskill's Affirmative Marketing Plan, within the housing region of the Borough of Cresskill.

I. The maximum height of any detached accessory structure containing an accessory apartment shall not exceed the maximum height permitted for accessory structures in the zone. However, if the detached accessory structure lies fully within the legal building envelope (i.e. not within any yard setback) for a principal structure then its maximum height shall not exceed the maximum height permitted for principal structures in the zone.

J. Accessory apartments shall be limited to efficiency units or one-bedroom units. More than one bedroom shall not be permitted.

K. In no case shall a detached accessory structure be located closer to a public street than the principal structure, except in the case of the existing accessory structure where no expansion is required.

L. A minimum of one off-street parking space shall be provided for an accessory apartment, in addition to the off-street parking already provided on site for the principal structure.

M. No accessory apartment created as a result of this article or these regulations shall exceed the gross floor area of the existing principal dwelling on the lot.

§ 275-156. Administrative requirements.

A. The Borough of Cresskill hereby designates its Administrative Agent to administer the accessory apartment program.

(1) The Borough or its assignee shall administer the accessory apartment program, including advertising, income qualifying prospective renters, setting rents and annual rent increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the accessory apartment program. These activities shall conform to the Borough of Cresskill Affirmative Marketing Plan and the Accessory Apartment operating manual.

(2) The Borough shall only deny an application for an accessory apartment if the project is not in conformance with COAH regulations, the municipal development ordinance or this article.

(3) In accordance with N.J.A.C. 5:93-5.9 of the COAH regulations, the Borough shall provide \$20,000 to subsidize the physical creation of a moderate income accessory apartment, and \$25,000 to subsidize the physical creation of a low income accessory apartment, provided they conform to the requirements of this section and all other COAH requirements. Prior to the grant of such a subsidy and prior to the issuance of a building permit, the owner shall enter into a written agreement with the Borough of Cresskill insuring that the subsidy will be used to create the accessory apartment and that the apartment shall meet the requirements of this article and COAH regulations.

B. Applicants seeking to create an accessory apartment shall submit the following documents prior to the issuance of a building permit:

(1) A sketch showing floor plans depicting the size and location of the rooms within the accessory structure and its relationship to the principal structure.

(2) A site plan on a current survey depicting the location of all existing and proposed structures on site, parking and driveways, and clearly indicating all dimensions.

(3) Building elevations showing all exterior building modifications proposed, including specifying materials, colors and window locations.

§ 275-157. Sunset clause.

The provisions of this article permitting accessory apartments shall become null and void, having no further force or effect, upon the issuance of a building permit for the sixth accessory apartment within the Borough of Cresskill. The administrative provisions shall remain in full force and effect, unless otherwise modified by COAH regulations, until the last deed restriction expires.

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This ordinance shall take effect upon passage and publication as provided by law.