

BOROUGH OF CRESSKILL

ORDINANCE NO. 19-01-1533

AN ORDINANCE TO AMEND CHAPTER 275 TO REPEAL AND REPLACE THE PROVISIONS OF ARTICLE XXXV OF ORDINANCES RELATING TO THE ACCESSORY APARTMENT PROGRAM OF THE BOROUGH OF CRESSKILL

BE IT ORDAINED by the Mayor and Council of the Borough of Cresskill in the County of Bergen, State of New Jersey:

Article XXXV of the Ordinances of the Borough of Cresskill is hereby repealed in its entirety and replaced with the following provisions:

**§ 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 very low, low- and moderate-income housing.

**§ 275-154 Definitions.**

For the purpose 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 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 permitted accessory use in the R-10 Zone only.
- B. Accessory apartments shall conform to all of the bulk requirements of the R-190 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 very low, 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 very low, low- and moderate-income households and include appropriate utility allowances, in accordance with COAH regulations. Cresskill Borough's current obligation is nine accessory apartments.
- F. Properties containing accessory apartments shall be deed-restricted to ensure that the accessory apartment shall be rented only to an income eligible 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 the Uniform Housing Affordability Controls (UHAC) 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. The Borough of Cresskill accessory apartment program shall not restrict the number of bedrooms in any accessory apartment. [Amended 7-13-2011 by Ord. No. 11-08-1410]
- 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 the applicable regulations, the municipal development ordinance or this article.
- (3) In accordance with N.J.A.C. 5:97-6.8 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, and \$35,000 to subsidize the physical creation of a very low-income accessory apartment, provided they conform to the requirements of this section and all other applicable 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/or provide a subsidy for the reduced rental rate and that the apartment shall meet the requirements of this article and applicable 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 accessory apartments shall become null and void, having no further force or effect, upon the issuance of a building permit for the ninth accessory apartment within the Borough of Cresskill, provided at least one of those units is rented to a very-low income household. The administrative provisions shall remain in full force and effect, unless otherwise modified, until the last deed restriction expires.

#### SECTION I

All other Ordinances of the Borough, or parts thereof, which are in conflict with this Ordinance, are hereby repealed to the extent of such conflict.

#### SECTION II

If any section, subsection, paragraph, subdivision, or sentence of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such decision shall apply only to the section, subsection, paragraph, subdivision, sentence, clause, phrase or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

#### SECTION III

This Ordinance shall take effect immediately upon final passage and publication according to law.