

**BOROUGH OF LITTLE SILVER  
ORDINANCE NO. 862-22**

**AN ORDINANCE AMENDING CHAPTER 16A, SECTION 10.29,  
THE BOROUGH'S ACCESSORY APARTMENT PROGRAM**

**WHEREAS**, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), the Borough of Little Silver (hereinafter "Little Silver" or the "Borough") filed a Declaratory Judgment Complaint on July 2, 2015, in Superior Court, Law Division seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan, to be amended as necessary, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine" (hereinafter "DJ Action"); and

**WHEREAS**, the Borough and Fair Share Housing Center ("FSHC") entered into a Settlement Agreement on June 12, 2018 to globally settle the Borough's DJ Action (hereinafter "FSHC Settlement Agreement"), which was approved via Court Order entered on September 18, 2018, after a properly noticed Fairness Hearing was held; and

**WHEREAS**, the Borough Planning Board adopted a Housing Element and Fair Share Plan on March 7, 2019 (hereinafter "Affordable Housing Plan"), which was endorsed by the Borough Council on March 11, 2019, to implement the FSHC Settlement Agreement; and

**WHEREAS**, one of the terms of the FSHC Settlement Agreement, as described in the Borough's Affordable Housing Plan, is for the borough to operate an Accessory Apartment program, in order to address the Borough's Third Round (1999-2025) Realistic Development Potential ("RDP"); and

**WHEREAS**, the Borough has been operating the Accessory Apartment program and has determined to increase the subsidy per unit within each income strata and to modify marketing of these units to generate overall more interest in the program; and

**WHEREAS**, the Borough has determined that these changes can be accomplished only through adoption of an amended Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Little Silver as follows:

Section 1. Chapter 16A, Section 10.29 entitled "Accessory Apartment Program," which was added to the Borough's Code by Ordinance No. 812-18 on September 10, 2018, be amended and replaced to read as follows. Additions are indicated by an underline. Deletions are indicated by a ~~strikethrough~~:

**§ 16A-10.29. Accessory Apartment Program.**

- A. Accessory apartments shall be permitted in the R-1, R-1A, and R-2 zones (lots with frontage on Rumson Road only), and the B-1 zone (lots with frontage on Church Street

only), provided the units are reserved for very-low, low-, and moderate-income households.

- B. Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all building codes.
- C. At the time of initial occupancy of the unit and for at least 10 years thereafter, the accessory apartment shall be rented only to a household which is either a very-low, low- or moderate-income household.
- D. Accessory apartment units shall be restricted to very-low, low- or moderate-income units. Accessory apartment units shall be restricted, regulated and administered consistent with the Borough's affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et. seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et. seq.).
- E. 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 of the unit and the accessory apartment.
- F. The appropriate utility authority must certify that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartment. Where the proposed location is served by an individual well and/or septic system, the additional capacity necessitated by the new unit must meet the appropriate NJDEP standards.
- G. The Borough of Little Silver accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
- H. No accessory apartment created as a result of this Article of these regulations shall exceed the gross floor are of the existing principal dwelling on the lot.
- I. An annual license and inspection fee, if required, shall be paid by unit owners.
- J. The Borough of Little Silver shall designate an administrative entity to administer the accessory apartment program that shall have the following responsibilities:
  - 1. The Administrative Agent 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 affordable accessory apartment program in accordance with the UHAC.
  - 2. The administrative entity shall only deny an application for an accessory apartment if the project is not in conformance with COAH's requirements and/or the

provisions of this section/Article. All denials shall be in writing with the reasons clearly stated.

3. In accordance with COAH requirements, the Borough of Little Silver shall provide at least 70,000.00 per unit to subsidize the creation of each very-low-income accessory apartment, 60,000.0 per unit to subsidize the creation of each low-income accessory apartment, or 50,000.00 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.
  4. The Borough's accessory apartment program will subsidize the development of 10 total affordable accessory apartment units. At least two units will be very-low-income, three units low-income, and five units moderate-income.
- K. Property owners wishing to apply to create an accessory apartment shall submit to the administrative entity:
1. A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;
  2. Rough elevations showing the modifications of any exterior building façade to which changes are proposed; and
  3. A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition, if any, along with the minimum building setback lines; the required parking spaces for both dwelling units; and any man-made conditions which might affect construction.
- L. In accordance with the recommendations of the Court and the Court-appointed Master, the Borough reserves the right to revisit this subsection from time to time, and to make appropriate adjustments to enhance the effectiveness of the Borough's Accessory Apartment Program.