



ORDINANCE OF THE CITY OF ASBURY PARK AMENDING AND SUPPLEMENTING CHAPTER XIII, ENTITLED “PROPERTY IMPROVEMENT AND NEIGHBORHOOD PRESERVATION - PROPERTY MAINTENANCE CODE,” OF THE “CODE OF THE CITY OF ASBURY PARK,” IN ORDER TO ESTABLISH A NEW SECTION THEREOF, ENTITLED “ACCESSORY DWELLING UNITS (ADUs)”.

WHEREAS, the Mayor and Council of the City of Asbury Park (the “City”) are committed to the creation and provision of affordable housing; and

WHEREAS, the Mayor and Council believe that the adoption of an Ordinance to permit and regulate “accessory dwelling units” within certain designated areas of the City represents an opportunity to foster the creation of new affordable housing units through properties which are already developed with existing housing units; and

WHEREAS, in order to minimize potential negative effects associated with “accessory dwelling units,” and to ensure adequate oversight thereof, the Mayor and Council wish to establish certain regulations which shall govern “accessory dwelling units,” including land use requirements and the necessity to obtain an annual license; and

WHEREAS, the Mayor and Council believe that the within regulations shall further the health, safety and welfare of the public.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Mayor and City Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, that Chapter XIII, entitled “Property Improvement and Neighborhood Preservation - Property Maintenance Code,” of the “Code of the City of Asbury Park, New Jersey,” is hereby amended and supplemented in order to establish a new Section thereof, entitled “Accessory Dwelling Units (ADUs)” as follows (additions are show with underline):

Chapter 13. Property Improvement and Neighborhood Preservation - Property Maintenance Code

Article 13-1400. ACCESSORY DWELLING UNITS (ADUs)

§ 13-1400.1. Purpose.

The purpose of this ordinance is to regulate Accessory Dwelling Units (ADUs), ensure their safe occupancy, maintain a record of ADUs, and ensure that they comply with all other regulations and ordinances of the City of Asbury Park.

§ 13-1400.2. Definitions.

ACCESSORY DWELLING UNIT (also referenced as “ADU”)

Shall mean an additional dwelling unit that is attached or detached, or located within or appurtenant to a permitted structure with a principal use; is located on the same lot as a permitted principal use; has no cooking facilities, food preparation facilities, and sanitary facilities in common with the principal use; has a separate unit entrance that is not shared with another residence; and is also referred to as an accessory apartment, alley flat, back house, backyard bungalow, , carriage house, coach house, garage apartment, granny flat, guest house or cottage, in-law suite, laneway house, mother-daughter house, multigenerational house, ohana unit, secondary dwelling unit, and/or sidekick.

OWNER

Shall mean an individual or entity holding title to a property proposed for an accessory dwelling unit, by way of a legally recorded Deed.

OWNER-OCCUPIED

Shall mean the owner of the property resides at the Accessory Dwelling Unit property (also referenced as "ADU property"), or in the principal residential unit with which the ADU is associated on the same lot, and identifies same as his or her principal residence as that term is defined in this Section. For purposes of this Section, if the owner of the property is an entity other than an individual or individuals, then at least one principal or member of the owner entity must reside in the ADU property, and identify same as his or her principal residence as that term is defined in this Section.

PRINCIPAL RESIDENCE

Shall mean the address: (1) where at least one of the property owners spends the majority of his or her non-working time, and (2) which is most clearly the center of his or her domestic life, and (3) which is identified on his or her driver's license, voter registration or state identification card as being his or her legal address. All the above requirements must be met in order for an address to constitute being a principal residence for purposes of this Section.

PROPERTY

Shall mean a parcel of real property located within the boundaries of the City of Asbury Park, Monmouth County, New Jersey.

SECTION

Shall mean Article 13-1400, Entitled "Accessory Dwelling Units (ADUs)," as contained within Part 2, "Rental Property," of Chapter XIII, "Property Improvement and Neighborhood Preservation - Property Maintenance Code," of the Code of the City of Asbury Park, New Jersey.

§ 13-1400.3. Regulations Pertaining to Accessory Dwelling Units.

- a. It shall be unlawful for any owner of any property within the geographic bounds of the City of Asbury Park, New Jersey, to construct or maintain an accessory dwelling unit contrary to the procedures and regulations established in this Section and in applicable sections of Chapter 30, "Land Development Regulations."
- b. Accessory dwelling units shall be permitted in accordance with the requirements established in this Section and in applicable sections of Chapter 30, "Land Development Regulations."
- c. In order to construct and maintain an accessory dwelling unit, the applicant must obtain an annual license, as set forth herein.

§ 13-1400.4. Accessory Dwelling Unit License.

- a. In addition to any land use requirement(s) set forth Chapter 30, "Land Development Regulations," the owner of a property upon which an accessory dwelling unit is intended to be constructed or maintained shall obtain an ADU license from the City of Asbury Park Department of Code Enforcement or their designee on an annual basis.
- b. The license shall cost ten dollars (\$10.00) per year.
- c. The following regulations are required in order to receive and maintain an ADU license:
 - 1. The property owner must obtain a zoning permit or zoning compliance certificate, as applicable, from the zoning officer.
 - 2. Except where otherwise specifically permitted by this Section or applicable Sections of Chapter 30, "Land Development Regulations," the principal structure or the ADU shall be occupied by the property owner.
- d. Failure to comply with the regulations for the ADU license may result in the suspension and possible revocation of the license as determined by the Code Enforcement Department, including but not limited to the potential revocation of the certificate of occupancy for the ADU.

§ 13-1400.5. Application Process for ADU License; Requirements.

- a. Applicants for an ADU license shall submit, on an annual basis, an application to the City of Asbury Park Department Code Enforcement or their designee.
- b. The application shall be furnished, under oath, on a form specified by the City Manager, accompanied by the non-refundable application fee as set forth herein. Such application shall include:
 - 1. The name, address, telephone number and email address of the owner(s) of record of the dwelling unit for which a license is sought. If such owner is not a natural

person, the application must include and identify the names of all partners, officers and/or directors of any such entity, and the personal contact information, including address and telephone numbers for each of them and the information as to the owner occupying the property.

2. The address and block/lot of the property where the proposed ADU is located, along with an updated plot plan or survey identifying the ADU's location on the lot.
3. A copy of the driver's license, voter registration or state identification card of the owner of the ADU, confirming, as set forth in this section, that the property is the principal residence, as that term is defined herein, of the owner making application for the ADU license.
4. The owner's sworn acknowledgement that they comply with the requirement that the ADU property constitutes the owner's principal residence, as defined herein.
5. The owner's sworn acknowledgement that he or she has received a copy of this Section, has reviewed it, understands its requirements and certifies, under oath, as to the accuracy of all information provided in the permit application.
6. The location of the designated parking space available to the premises, for the ADU.
7. Any other information deemed necessary by the City Manager or his/her designee in furtherance of the objectives of this Section.
8. Every application for an ADU license shall require inspections for the ADU's compliance with the City's fire safety regulations and Property Maintenance Code for occupancy. In addition, each application is subject to review to verify the ADU's eligibility for occupancy and compliance with the regulations in this section. Failure to abate any outstanding violations prior to occupancy can result in a summons.
9. A zoning permit or zoning compliance certificate, as applicable, which confirms that the premises are not being occupied or used in violation of the City's Land Use Regulations and Zoning Ordinance, shall be required.
10. A sworn statement shall be required that there have been no prior revocations or suspensions of this or a similar license, in which event a license shall not be issued, which denial may be appealed as provided hereinafter.
11. The person offering a dwelling unit as an ADU must be the owner of the dwelling unit. A tenant of a property may not apply for an ADU license, nor shall the property or any portion thereof be sub-leased by the tenant on a short-term basis, or operated as an ADU by the tenant. Neither the ADU nor the principal unit can

be a short- term rental. This ADU regulation shall supersede any conflicting provision in a private lease agreement permitting sub-leasing of the property, or any portion of the property. Violation of this Section will result in enforcement action against the tenant, the ADU owner, the Rental Agent, and the Responsible Party, and will subject all such parties to the issuance of a Summons and levying of fines and/or penalties.

12. The ADU owner must be current with all tax and sewer charges assessed to the property prior to the issuance of a permit. In the event that any code violations have been issued by the City relating to the ADU, a permit shall not be issued until such time as such violations have been properly abated. The ADU owner must also close any open construction permits for the property prior to the issuance of an ADU permit.
13. All fines or penalties issued by the Municipal Court for the City of Asbury Park for any past code violations relating to the ADU, including penalties for failure to appear in Court, must be satisfied in full prior to the issuance of an ADU permit.

§ 13-1400.6. Issuance of License and Appeal Procedure.

- a. Once an application is submitted, complete with all required information and documentation and fees, the Department of Code Enforcement or their designee, following any necessary investigation for compliance with this Section and applicable Sections of Chapter 30, "Land Development Regulations," shall either issue the ADU license, or issue a written denial of the license application (with the reasons for such denial being stated therein), within ten (10) business days.
- b. If denied, the applicant shall have ten (10) business days to appeal in writing to the City Manager, by filing the appeal with the City Manager's Office.
- c. Within thirty (30) days thereafter, the City Manager or his designee shall hear and decide the appeal.
- d. A license shall only be issued after all outstanding violations have been abated.

§ 13-1400.7. ADU Operational Requirements.

- a. Operation of an ADU shall be in accordance with the requirements set forth herein. Additionally, operation of an ADU shall comply with all requirements set forth in Section 30-75.4 of the City Code and/or other applicable Sections of Chapter 30, "Land Development Regulations."

§ 13-1400.8. Violations and Penalties.

- a. A violation of any provision of the within section may subject the ADU owner, transient occupant(s), the property rental agent, and/or the responsible party or their agents to fines assessed by the Court up to \$2,000 per violation, per day that the violation exists.

BE IT FURTHER ORDAINED, that all other provisions of Chapter 13 of the City Code which are not referenced in this Ordinance shall remain unaffected/unchanged and remain in full force and effect.

BE IT FURTHER ORDAINED, that all parts and provisions of any Ordinance which are inconsistent with the provisions of this Ordinance shall be repealed to the extent of such inconsistency.

BE IT FURTHER ORDAINED, that the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon final passage and publication in accordance with the law, following the required twenty (20) day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).