



**ORDINANCE OF THE CITY OF ASBURY PARK AMENDING AND
SUPPLEMENTING CHAPTER XXX, ENTITLED “LAND DEVELOPMENT
REGULATIONS,” OF THE “CODE OF THE CITY OF ASBURY PARK,”
REGARDING ACCESSORY DWELLING UNITS.**

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 XXX, entitled “Land Development Regulations,” of the “Code of the City of Asbury Park, New Jersey,” is hereby amended and supplemented in the following respects (additions are shown with underline; deletions are shown with ~~strikethrough~~):

§ 30-15. DEFINITIONS.

ACCESSORY DWELLING UNIT

Shall mean an additional dwelling unit that:

- a. Is detached, and appurtenant to a permitted structure with a principal residential use;
- b. Is located on the same lot as a permitted principal residential use;
- c. Has no cooking facilities, food preparation facilities, and sanitary facilities in common with the principal use;

- d. Has a separate unit entrance that is not shared with another residence;
- e. 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.

DWELLING, MULTI-FAMILY

Shall mean a building containing more than two (2) dwelling units; an accessory dwelling unit, as defined by this chapter, does not count towards the unit count.

DWELLING, TWO-FAMILY

Shall mean a building containing two (2) dwelling units; an accessory dwelling unit, as defined by this chapter, does not count towards the unit count.

§ 30-68.3. Height Regulations.

c. Accessory Structures:

1. In all commercial and industrial districts, the height of accessory structures shall be limited to the height of the principal structure.
2. In all residential districts, with the exception of an accessory dwelling unit, the height of accessory structures shall not exceed 15 feet.
3. The height limit of the structure containing a newly constructed accessory dwelling unit (as defined by Section 30-15) within permitted zones shall be 20 feet.

§ 30-70.3. (R1) - Single Family Residential Zone.

b. Permitted Accessory Uses.

1. Garages.
2. Personal recreational facilities such as swimming pools, basketball hoops, etc., subject to the requirements of this chapter.
3. Driveways for the parking of personal vehicles, subject to the provisions of this chapter.
4. Any other structure which is clearly incidental to the principal residential use of the premises.
5. Minor home occupations.

6. Accessory dwelling units.

§ 30-70.5. (R2) - One and Two Family Residential Zone.

b. Permitted Accessory Uses.

1. Garages.
2. Personal recreational facilities such as swimming pools, basketball hoops, etc., subject to the requirements of this chapter.
3. Driveways for the parking of personal vehicles, subject to the provisions of this chapter.
4. Any other structure which is clearly incidental to the principal residential use of the premises.
5. Off-street parking facilities as required by this chapter and used exclusively by the occupants of a permitted residential use.
6. Minor home occupations.
7. Accessory dwelling units.

§ 30-70.6. (R3) - Multifamily Residential Zone.

b. Permitted Accessory Uses.

1. Garages.
2. Personal recreational facilities such as swimming pools, basketball hoops, etc., subject to the requirements of this chapter.
3. Driveways for the parking of personal vehicles, subject to the provisions of this chapter.
4. Any other structure which is clearly incidental to the principal residential use of the premises.
5. Minor home occupations.
6. Accessory dwelling units.

§ 30-70.7. Deal Lake Drive Inclusionary Housing Overlay District.

c. Permitted Accessory Uses.

1. Accessory buildings.
2. Private recreational facilities and common open space.
3. Off-street parking facilities, including garages and/or structured parking.
4. Minor home occupations.
5. Uses which are customary and incidental to the principal use.
6. Accessory Dwelling units.

§ 30-75.1. Accessory Structures in All Zones.

Accessory structures not attached to a principal structure may be erected in a side or rear yard in accordance with the following regulations:

- a. No accessory structures shall be located closer than five (5) feet to any side property line.
- b. In the R1 and R2 Zones, accessory structures may be erected in the rear yard not closer than five (5) feet to the side lot line and three (3) feet to the rear lot line.
- c. Except where otherwise specifically permitted by this chapter, accessory structures in multifamily and nonresidential zones shall meet the setback requirements of the principal building.
- d. Except for a licensed ADU, no portion of any accessory structure shall be used for living quarters for people.
- e. When an accessory structure is attached to the principal building it shall be considered as a part of the principal building and it shall comply in all respects with the requirements of this chapter applicable to the principal structure.
- f. With the exception of uncovered decks and pools, accessory structures shall be included in meeting the maximum building and impervious coverage requirements in Schedule 1.
- g. Existing lots in the R1 and R2 District, which contain a single or two-family dwelling, and which do not contain an attached or detached garage, are permitted to construct one accessory building of not more than 100 square feet in area which shall be exempt from the district requirements for building coverage and lot coverage. Such accessory building shall comply with any other applicable bulk or spatial requirements of this chapter. The aforementioned 100 square feet of area may not be applied to the construction of an accessory dwelling unit.
- h. No accessory use is permitted in the front yard.

§ 30-75.2. Personal Recreational Facilities in Residential Zones.

Except for portable swimming pools less than three (3) feet in height and less than ten (10) feet in length or diameter, the following regulations shall apply to permanent and portable swimming pools, tennis courts and similar personal recreation facilities:

- a. The use shall be erected on the same lot as the principal structure and shall require a Construction Permit.
- b. The use may be erected in the side and/or rear yard and shall be not less than five (5) feet from any lot line.
- c. The use shall be appropriately screened and fenced so as not to adversely affect adjoining properties.
- d. Lighting which extends the hours of operation, other than in-pool lights, shall be prohibited.
- e. In the case of swimming pools, all measurements shall be from the pool apron and provision for drainage shall be approved as part of the Construction Permit.
- f. No Personal Recreational Facilities are permitted in the front yard.

§ 30-75.4. Accessory Dwelling Units.

Accessory dwelling units (ADU) shall be allowed in their permitted zones subject to the following:

- a. There shall be no more than one ADU per lot
- b. The lot with the ADU shall not subdivided to separate the principal structure from the ADU
- c. The ADU shall not be sold separately as a condominium unit or similar owned structure.
- d. For ADUs that are a new structure or expand the footprint and/or height of an existing structure, the floor area and building coverage of the ADU shall not exceed that of the principal use and structure.
- e. The ADU shall have a minimum of two rooms, one of which shall be a bathroom.
- f. The ADU shall have facilities for cooking, preparing food, and sanitation.
- g. Refuse shall not be stored in the front yard.
- h. The ADU shall not eliminate space dedicated to the required parking of the principal use.

- i. All rooms of the ADU shall be accessible from within the unit.
- j. The ADU shall have its own entrance to the unit.
- k. Access stairs and landings, Decks, and porches associated with the ADU shall face toward the interior of the lot and not towards the nearest side and rear yards. Balconies and other upper story outdoor living space are not permitted on an ADU structure.
- l. An ADU shall not be built between the principal use and the front of the lot.
- m. For new construction of the ADU, the ADU shall comply with the bulk requirements of a garage structure of the zoning district in which is it located, except is permitted up to 20 feet of height.
- n. A minimum of one (1) parking space is required for the ADU; this space may be allocated from within an existing driveway with approval by the Planning and Redevelopment Department.
- o. An additional curb cut on a street may not be constructed to service the ADU when one already exists. An additional curb cut may be constructed on an alley.
- p. The ADU shall adhere to the Community Design Regulations for buildings (Section 30-64).
- q. Prior to the issuance of a construction permit and/or zoning permit for an ADU, the applicant must submit a survey, plot plan and architectural plans which depict in detail the size, location, and appearance of the proposed structure, along with utility connections and parking space allocation.

For the issuance of a zoning compliance certificate for the continuation of the use of an existing ADU, the zoning officer shall have the discretion to waive the submission of the supporting documents of a survey, plot plan and architectural plans where the applicant can demonstrate that no changes have occurred since the initial submission of the original documents.
- r. The ADU shall not be eligible to receive a short term rental license pursuant to Section 13-1300 of the City Code.
- s. ADU License.
 - 1. In order to operate an ADU, the property owner must apply for and receive a license that is issued by the Department of Code Enforcement or their designee pursuant to Section 13-1400 of the City Code.

2. The following regulations are required in order to receive and maintain an ADU license:

(a) The property owner must obtain a zoning permit or zoning compliance certificate, as applicable, from the zoning officer.

t. Properties upon which non-conforming two and/or multifamily uses of record are situated are not eligible for the construction of a new ADU.

u. Within one year of the enactment of this ordinance, all two and three family properties that believe that one of their units fits the definition and legal qualifications of an ADU, may request a zoning verification from the Zoning Officer for the city to acknowledge the ADU and for the property's use to reflect that acknowledgement. After one year, the property will retain its current recorded use, unless changed by the City.

v. Bonuses.

In order to encourage both affordability and accessibility to ADU's, the following items are offered up as bonuses.

1. Accessibility.

(a) If the ADU conforms to the New Jersey Barrier Free Code:

(1) The property may exceed the permitted building coverage by an additional 5%.

(2) The ADU shall have the following fees waived:

(i) COAH Residential Development Fees.

2. Affordability.

(a) An ADU is eligible for bonuses if the following requirements are met:

(1) Compliance with the applicable affordable housing requirements for accessory apartments in Chapters 30 & 31 of the Asbury Park Code, as well as the Uniform Housing Affordability Control Rules, N.J.A.C. 5:80-26.1 and the Fair Housing Act, N.J.S.A. 52:27D. This shall include but not be limited to affirmative marketing, maximum rent, and annual increases in rent.

(2) A deed restriction for affordable housing, as defined and regulated by Chapters 30 & 31, for a minimum of ten (10) years.

(b) Where an ADU meets the affordability requirements listed in Section 30-75.4v2(a)(1) above, the lot shall be eligible for the following bonuses:

(1) The owner of the property shall not be required to occupy the property.

(2) The property may exceed the permitted building coverage by an additional 5%; this may be combined with the accessibility bonus for a total additional coverage of 10%.

(3) There is no parking requirement for the ADU.

(4) The ADU shall have the following fees waived:

(i) COAH Residential Development Fees.

(ii) Sanitary Sewer Fees.

(iii) Zoning Permit Fee.

(5) Grant bonus.

(i) The City shall appropriate funds in its annual budget to provide one-time grants to assist with the creation of affordable ADUs that are deed restricted for a minimum of ten (10) years as follows:

A. \$20,000 per moderate income unit.

B. \$30,000 per low income unit.

C. \$35,000 per very low income unit.

(ii) Process.

A. Interested property owners will be able to secure information and application packages from the City's designee to manage the ADU program.

B. Interested applicants shall submit complete an application to the City.

C. The City will review the application for completeness and, if deemed complete, determine that the applicant has signed a binding contract stating their willingness to rent the ADU to a

household that qualifies for moderate or low-income housing.

D. Recommendations for funding shall be sent by the City to the City Clerk for inclusion on the agenda for the City Council. If all program criteria and zoning requirements have been met and certified by the Zoning Officer in writing, the Council shall approve the funding of the ADU from funds allocated for the program when available and shall authorize the City Attorney to prepare an ADU grant agreement and affordability deed restriction.

E. Funding will be provided to the approved ADU as follows:

i. Twenty-five percent (25%) will be provided once the deed restriction is recorded.

ii. Twenty-five percent (25%) will be provided at the issuance of the first construction permit.

iii. Twenty-five percent (25%) will be provided at the issuance of the certificate of occupancy.

iv. Twenty-five percent (25%) will be provided when the lease is executed with the initial prospective tenant.

F. Before a construction permit and a certificate of occupancy may be issued:

i. The applicant shall have entered into an agreement with the City per Section 30-75.4v2(b)(5)(ii)(D) above to the effect that the proposed ADU shall be constructed, occupied, and maintained in a manner that complies with all of the requirements of the New Jersey Council on Affordable Housing, including the following: the minimum ten (10) year length of affordable housing deed restriction; the necessity of affirmatively marketing the unit; the basis for calculating the maximum permitted rent and all

incremental increases in the permissible rent; the method and timing of payments and subsidies by the City; and any other relevant matters consistent with the intent and purpose of this section and the affordable housing program in general.

ii. The applicant is required to contract with the municipality's Affordable Housing Administrative Agent or other designee approved by The City.

iii. All necessary agreements shall be signed by the applicant and the designee of the City.

iv. The deed restriction for the minimum ten-year affordability control shall be filed and recorded with the County Clerk.

G. All subsidy monies shall be refunded to the City should the affordable ADU not be occupied by a qualified tenant within one year of granting the subsidy. Additionally, should the affordable ADU not be produced or rented to a qualified household, or if the property owner violates any requirements of the deed restriction during its term, then the subsidy shall be returned to the City and deposited in the Housing Trust Fund.

H. The City shall establish a tracking database of all permitted and recorded ADUs using data provided by the license program.

§ 30-110.3. Scattered Site Redevelopment Area.

Ordinance No. 2637 adopted 5-7-2003. An ordinance approving a Redevelopment Plan for the Scattered Site Redevelopment Area pursuant to the New Jersey Local Redevelopment and Housing Law.

Ordinance No. 2668 adopted 12-3-2003. An ordinance approving a redevelopment plan for the Scattered Site Redevelopment Area.

Ordinance No. 2676 adopted 3-17-2004. An ordinance adopting an amendment to the Scattered Sites Redevelopment Plan at 603 First Avenue.

Ordinance No. 2775 adopted 5-3-2006. An ordinance approving and adopting an amendment to the Scattered Site Redevelopment Plan, Phase 1A, 408 Third Avenue.

Ordinance No. 2869 adopted 5-7-2008. An ordinance amending Phase 1A of the Scattered Site Redevelopment Plan relating to the former Metropolitan Hotel Site, located at 309 Asbury Avenue (Block 147, Lot 1).

Ordinance No. 3012 adopted 4-18-2012. An ordinance amending the Scattered Site Redevelopment Plan, Phase 1A, relating to the property located at 408 Third Avenue.

Ordinance No. 3014 adopted 5-2-2012. An amending the Scattered Site Redevelopment Plan, Phase 1A, relating to the property located at 309 Asbury Avenue.

Ordinance No. 2017-38 adopted 10-25-2017. Allows certain property to be used as an accessory parking lot to service philanthropic use of another site.

Ordinance No. 2019-46 adopted 11-26-2019. Amends map and removes Block 3202, Lot 9 (formerly Block 141, Lot 3).

Ordinance No. _____ adopted _____ - _____-2022. An Ordinance Amending the Scattered Site Redevelopment Plan to permit ADUs as an accessory use in accordance with the requirements set forth in Section 30-75.4.

§ 30-110.5. S.T.A.R.S. Redevelopment Plan.

(Strategic Target Area Rebuilding Spirit (STARS))

Ordinance No. 2548 adopted 7-5-2000. An ordinance creating the STARS Redevelopment Plan.

Ordinance No. 2609 adopted 7-17-2002. An ordinance adopting an amendment an amendment to Strategic Target Area Rebuilding Spirit (S.T.A.R.S.) Redevelopment Plan.

Ordinance No. 2814 adopted 1-17-2007. An ordinance amending the Strategic Target Area Rebuilding Spirit (STARS) Redevelopment Plan, relating to the properties located at 1406-1422 Springwood Avenue (Block 96, Lots 1 through 3 and Lots 42 through 45).

Ordinance No. 2861 adopted 2-6-2008. An ordinance amending the Strategic Target Area Rebuilding Spirit (STARS) Redevelopment Plan — Borden Avenue.

Ordinance No. 2885 adopted 11-12-2008. An ordinance amending the Strategic Target Area Rebuilding Spirit (STARS) Redevelopment Plan, relating to the properties located in Blocks 98, 99 and 100 (area bounded by Borden Avenue, Springwood Avenue, Avenue "A," Atkins Avenue and the Neptune Township border).

Ordinance No. 2020-22 adopted 9-9-2020. Amends the STARS Redevelopment Plan.

Ordinance No. _____ adopted _____ - _____-2022. An Ordinance Amending the STARS Redevelopment Plan to permit ADUs as an accessory use in accordance with the requirements set forth in Section 30-75.4.

§ 30-110.6. Washington Avenue Redevelopment Plan.

Ordinance No. 2555 adopted 12-6-2000. An ordinance authorizing the City Planning Board to prepare a Redevelopment Plan for the "Washington Avenue" Area.

Ordinance No. 2948 adopted 9-1-2010. An ordinance adopting the Washington Avenue Redevelopment Plan relating to the Washington Avenue Redevelopment Area.

Ordinance No. _____ adopted _____ - _____-2022. An Ordinance Amending the Washington Avenue Redevelopment Plan to permit ADUs as an accessory use in accordance with the requirements set forth in Section 30-75.4.

BE IT FURTHER ORDAINED, that all other provisions of Chapter 30 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).

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of ORDINANCE NO. 2022-XX, which was finally adopted by the City Council at a meeting held on the _____ day of _____, 2023.

LISA ESPOSITO
CITY CLERK