

EXPLANATION: This Ordinance amends and updates the Borough’s affordable housing accessory apartment program in connection with the Borough’s affordable housing compliance actions.

**BOROUGH OF FAR HILLS
ORDINANCE NO. 2020-06**

**AN ORDINANCE AMENDING SECTION 1005 OF
CHAPTER X OF “THE LAND MANAGEMENT
ORDINANCE OF THE BOROUGH OF FAR HILLS”
ADOPTED DECEMBER 28, 1989, AS AMENDED, TO
UPDATE THE BOROUGH’S ACCESSORY APARTMENTS
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 Far Hills (hereinafter “Far Hills” 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 entered into a Settlement Agreement on October 15, 2018 to globally settle the Borough’s DJ Action (hereinafter “FSHC Settlement Agreement”), which was approved via an order entered by the Court on February 26, 2019 after a properly noticed fairness hearing was held; and

WHEREAS, the Borough Planning Board adopted a Housing Element and Fair Share Plan on August 5, 2019 (hereinafter “Affordable Housing Plan”), which was endorsed by the Borough Council on July 9, 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 adopt an amendment to the Borough’s land-use ordinance to establish the accessory apartment program set forth in the Borough’s Housing Element and Fair Share Plan; and

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Far Hills, in the County of Somerset, State of New Jersey, as follows:

Section 1. Section 1005 entitled “Standards for accessory apartments for lower income households in the R-10, R-6, R-3, R-9, R-5 Residential Districts and the NO Neighborhood Office District” of Article X entitled “Exceptions, Modifications and Development Alternatives” of the Land Management Ordinance of the Borough of Far Hills, is hereby supplemented and amended by repealing Subsections “A” – “O” and replacing same with the following new subsections as follows:

A. Accessory Apartments as Affordable Housing Units in the R-10, R-6, R-3, R-9, R-5 Residential Districts and the NO Neighborhood Office District.

1. Purpose Statement: It is the specific purpose and intent of this section to allow accessory apartments in the R-10, R-6, R-3, R-9, R-5 Residential Districts and the NO Neighborhood Office District on parcels of minimum size in conformance with the specific zoning district minimum lot size requirement to provide the opportunity for the development of affordable housing units to meet the needs of very-low-, low- and moderate-income residents. It is also the purpose of this limited, special-use provision to allow more efficient use of the Borough’s existing stock of dwellings and the Borough's existing stock of accessory buildings, to allow existing residents the opportunity to remain in large, underutilized houses by virtue of the added income for them from an accessory apartment, to allow accessory apartments in new attached and/or detached structures and to protect and preserve property values in the Borough of Far Hills. To help achieve these goals to promote the other objectives of this chapter and of the Master Plan, and to implement the Borough’s 2019 Housing Element and Fair Share Plan, the following specific standards and limitations are set forth for such accessory apartment use.

B. Location and Number of Units.

1. An accessory apartment may be located in the principle building or in an existing permitted accessory building, such as a barn or garage, and may include existing and/or expanded structure construction. More than one accessory apartment may be located upon a lot, provided that all other requirements of the zoning district are met and all structures on the lot are conforming as to required setbacks, parking and wastewater disposal.

C. Other Requirements.

1. An accessory apartment unit will comply with the requirements of the Borough’s Affordable Housing Ordinance.
2. All standards and requirements of the zone district, except as modified by this section, shall apply.

3. An accessory apartment unit shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all local building codes.
4. Exterior Appearance. An accessory apartment shall be located, designed, constructed, and landscaped so as to preserve the appearance of the principal building to the maximum extent feasible and further to enhance and not detract from the character of the principal building and the surrounding neighborhood. An accessory apartment shall have a separate, distinct entry which does not detract from the character of the principal building.
5. Off-Street Parking. Off-street parking requirements shall be that two (2) off-street parking spaces must be provided in the rear yard for each accessory apartment on the property of the applicant. Additional parking areas shall be paved only when proven necessary and shall be screened and buffered from visibility to adjacent properties to the extent possible.
6. The appropriate utility authority or Board of Health must certify that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartment.
7. An accessory apartment unit shall, for a period of at least 10 years from the date of the issuance of a certificate of occupancy, be rented only to a very low, low or moderate income qualified household as is defined by applicable Council on Affordable Housing ("COAH") and Uniform Housing Affordability Controls ("UHAC") regulations at the time of initial occupancy of the unit.
8. The occupant must meet the established income limitations for very low, low, and moderate-income households as specified by the rules and regulations of the Council on Affordable Housing (COAH) (N.J.A.C.5:93 et seq.).
9. The accessory apartment must meet the adaptability law at P.L. 2005, c.350, if applicable.
10. Rents of accessory apartments shall be affordable to very-low-, low-, and moderate-income households as per COAH and UHAC regulations.
11. 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 within the affordable housing requirements stated herein.
12. Each accessory apartment shall have its own private entrance, living/sleeping space, cooking facilities, a kitchen sink, and complete sanitary facilities for the exclusive use of its occupants.
13. The accessory apartment shall have a separate door with direct access to the outdoors.
14. The accessory apartment shall be affirmatively marketed to the housing region in accordance with COAH regulations and the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.

15. Accessory apartment units are exempt from bedroom mix requirements in N.J.A.C. 5:93-7.3.
16. A freestanding accessory building(s) containing accessory apartment units shall conform to the setback requirements for principal buildings in the district.

D. Administration

1. Far Hills Borough shall designate an Administrative Agent to administer the accessory apartment program.
2. The Administrative Agent shall administer the accessory apartment program in accordance with the Borough's Affordable Housing Ordinance, which includes, but is not limited to, advertising, income qualifying prospective renters, settling rents and annual rental increases, maintaining a waiting list, distributing the subsidy, overseeing the securing of certificates of occupancy, qualifying properties, handing application forms, overseeing the filing deed restrictions, filing monitoring reports and affirmatively marketing the accessory apartment program.
3. The Borough shall provide fixed subsidies per accessory apartment unit as follows to subsidize the creation of each accessory apartment. For very-low income units a \$30,000 fixed subsidy will be available. For low income units a \$25,000 fixed subsidy will be available. For moderate income units a \$20,000 fixed subsidy will be available. Prior to the grant of such subsidy, the property owner shall enter into a written agreement with the Borough ensuring that the subsidy shall be used to create the accessory apartment and the apartment shall meet the requirements of this subsection.
4. Applicants for the creation of an accessory apartment shall submit to the administrative agent:
 - (a) A sketch of floor plans showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;
 - (b) Rough elevations showing the modification of any exterior building façade to which changes are proposed; and
 - (c) 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 manmade conditions which might affect construction.
5. 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.

Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Far Hills, the provisions hereof shall be determined to govern, and the inconsistencies of the prior ordinance are hereby repealed. All other parts, portions and provisions of the Ordinances of the Borough of Far Hills are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Somerset County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Far Hills for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.


Section 6. Within five (5) days after its adoption by the Council, this Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40A:60-5(d). If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

Section 7. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40A:60-5(d); (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the

Somerset County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor
as required by N.J.S.A. 40:49-2.1.

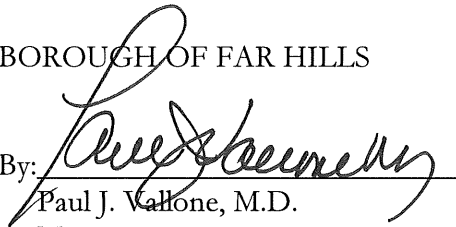
Introduced: May 11, 2020
Published: May 14, 2020
Adopted: June 8, 2020
Published: June 11, 2020

ATTEST:



Dorothy S. Hicks
Borough Clerk

BOROUGH OF FAR HILLS

By: 

Paul J. Vallone, M.D.
Mayor