

**TOWNSHIP OF MILLSTONE**

**ORDINANCE NO. 20-02**  
**INTRODUCTION DATE: 02-19-2020**  
**ADOPTION DATE: 03-18-2020**

**ORDINANCE AMENDING CHAPTER XXXV (LAND USE)**  
**ARTICLE 5, (ZONING DISTRICT REGULATIONS) OF THE REVISED**  
**GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE,**  
**COUNTY OF MONMOUTH AND STATE OF NEW JERSEY TO ADD**  
**NEW SECTION 5-17 (ACCESSORY APARTMENTS)**

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**BE IT ORDAINED**, by the Township Committee of the Township of Millstone, County of Monmouth and State of New Jersey as follows:

Chapter XXXV, Land Use Article 5, Zoning District Regulations is hereby amended to add new Section 5-17 “Accessory Apartments” which shall read as follows:

**5-17 Accessory Apartments**

A. Accessory apartments shall be permitted in all single family residential zones within the Township. Accessory apartments are permitted as a part of the Township’s Affordable Housing Plan which contemplates the creation of ten (10) affordable accessory apartments over the next five (5) years. In the event that the number of affordable accessory apartments produced exceeds ten (10) units, such additional units shall be applied to, and credited against, the Township’s Fourth Round Affordable Housing obligation.

B. For the purposes of this Section “accessory apartment” shall be defined as follows:

**“Accessory Apartment”** means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters, and a private entrance which is created within an existing home, or through the conversion of an existing detached accessory structure on the same site, or by an addition to an existing home or accessory building. The creation of such a dwelling unit shall be clearly incidental to a 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, unless such a subdivision and the structures involved, conform to all Municipal Zoning regulations and standards. Accessory apartments shall conform to all of the requirements of the New Jersey Council on Affordable Housing (COAH) and provide the Township with a credit against its affordable housing obligation.<sup>1</sup>

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<sup>1</sup> As used herein the term Council on Affordable Housing or COAH shall be deemed to include “or any successor entity with jurisdiction”.

### **C. Minimum Standards.**

1. Lot area. Accessory apartments shall be permitted on lots of twenty thousand (20,000) square feet or greater, except where there exists a qualifying existing accessory apartment which is on a lot of less than twenty thousand (20,000) square feet. Such an apartment can be counted as long as all other Standards and Regulations can be met.

2. Unit Size and Type. Accessory apartments shall contain at least five hundred (500) square feet of gross floor area. Each unit must also contain bathroom and kitchen facilities. Units attached to principal dwellings must have a separate entrance but shall not have access directly to the principal dwelling from within the structure.

3. A Deed restriction shall be applied to properties with accessory apartments that are completely detached specifying that such units may not be subdivided off in the future unless such subdivision, the structures located thereon and the resultant lots conform in all respects to all Municipal Zoning regulations and standards.

4. A Deed restriction shall be recorded for every newly created accessory apartment requiring compliance with all affordability controls and procedures set forth in the regulations of COAH or any successor entity for such period of time as may be required for the Township of Millstone to receive credit for the unit against its affordable housing obligation.

5. Parking. A minimum of one (1) off-street parking space shall be provided for a one bedroom or a two-bedroom accessory apartment. A three-bedroom accessory apartment shall be required to provide two (2) off-street parking spaces. In each case the total number of parking spaces provided on the entire site shall comply with the Residential Site Improvement Standards (RSIS).

6. Building setbacks. No new accessory apartment structure shall be located in any front yard or have less than the required side or rear yard setback for principal buildings for the zone in which the property is located. However, additions to existing principal or accessory structures that do not conform to the required setback shall be permitted without the requirement for a setback variance as long as no existing nonconforming setback is decreased. In the case of lots in excess of forty thousand (40,000) square feet, the minimum side or rear setback shall be twenty (20) feet.

### **D. Maximum Regulations.**

1. Notwithstanding the building height limitations which apply to accessory structures, structures containing an accessory apartment that is developed in a manner which will contribute to the satisfaction of the Townships

Mount Laurel obligation, shall be permitted to have a maximum height of one and one-half (1 1/2 ) stories and twenty (20) feet.

2. Accessory apartments shall be limited to a maximum gross floor area of one thousand (1,000) square feet.

**E. The Other Regulations.**

1. Accessory apartments shall be limited to one (1) bedroom, except that on lots in excess of forty thousand (40,00) square feet, an accessory apartment shall be permitted to contain two (2) or three (3) bedrooms.

2. Prior to the issuance of a building permit for an accessory apartment, a site plan and architectural plans must be submitted depicting in detail, the size, location and appearance of the property structure. Any construction relative to the creation of an accessory apartment shall be architecturally consistent to the principal residence including siding, roofing materials and color.

3. Where new paved or gravel driveways or parking areas are proposed, a minimum five (5) foot setback from any side or rear property line shall be maintained. Landscaping and/or solid fencing shall be provided to screen such areas from the adjacent property. The proposed screening shall be specified on the site plan.

4. Accessory apartments shall be developed for the housing of very low, low and moderate income persons and shall conform in all respects with the eligibility and affordability requirements of the New Jersey Council on Affordable Housing.

5. No detached accessory apartment shall be located closer to a public street, adjoining a front yard than the principal structure.

6. All accessory apartments shall have rents in compliance with COAH affordability controls, shall be affirmatively marketed in accordance with COAH requirements and shall be administered by the Affordable Housing Administrator (“Administrative Agent”) appointed by the Township for such purpose.

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

If any Section, subparagraph, sentence, clause or phrase of this Ordinance shall be held to be invalid, such decision shall not invalidate the remaining portion of this Ordinance.

This Ordinance shall take affect upon adoption and publication according to law and filing with the Monmouth County Planning Board.

**EXPLANATORY STATEMENT:** This Ordinance revision provides for the opportunity to create affordable housing units to assist Millstone Township in meeting its affordable housing obligation pursuant to the Mount Laurel Doctrine.