

**BOROUGH OF MANASQUAN
ORDINANCE NO. 2284-19**

**AN ORDINANCE REPLACING SECTION 35-38B OF
CHAPTER 35 (ZONING) OF THE MUNICIPAL CODE
TO UPDATE THE ACCESSORY APARTMENT
PROGRAM IN THE BOROUGH OF MANASQUAN,
COUNTY OF MONMOUTH**

BE IT ORDAINED, by the Borough Council of the Borough of Manasquan, in the County of Monmouth and State of New Jersey, as follows:

SECTION 1. Purpose. The purpose of this ordinance is to update the existing Accessory Apartment program in the Borough of Manasquan in order to create a realistic opportunity to provide for the development of affordable housing in accordance with the Fair Housing Act (N.J.S.A. 52-27D-301), New Jersey Council on Affordable Housing Substantive and Procedural Rules, and the Housing Plan Element and Fair Share Plan prepared by the Borough to address its Third Round affordable housing obligation (1999-2025).

SECTION 2. Chapter 35 of the Revised General Ordinances of the Borough of Manasquan, Section 35-38B, is hereby replaced in its entirety as follows:

ACCESSORY APARTMENTS

This section sets forth regulations governing an affordable accessory apartment program, which is hereby enacted for the purpose of providing the opportunity to construct affordable housing in the Borough of Manasquan.

a. Definitions

1. “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 attached accessory structure on the same site, or by an addition to an existing home or accessory building.

b. General Provisions

1. Accessory apartments shall be permitted in all zones located in the Borough and shall be subject to the bulk and yard requirements of the zone in which the unit is located.
2. There shall be water and sewer infrastructure available to serve any proposed accessory apartment.
3. An accessory apartment shall consist of no less than two rooms, one of which shall be a full bathroom, and shall contain a living space, sleeping space, cooking facilities, a kitchen sink, and complete sanitary facilities for the exclusive use of its occupants.
4. Each accessory apartment shall be served by a separate entrance that provides direct access to the outdoors.
5. Accessory apartments shall comply with all other applicable statutes and regulations of the State of New Jersey and shall be constructed in accordance with all applicable building codes.
6. Accessory apartments shall be exempt from the required bedroom mix governing the provision of affordable housing as permitted in N.J.A.C. 5:93-5.9.
7. Each accessory apartment shall be affirmatively marketed to the region in accordance with N.J.A.C. 5:93-11.1 and the Borough’s affirmative marketing plan.

c. Affordability

1. The Borough shall provide a subsidy for Accessory Apartment program of \$25,000 for a moderate income unit, \$35,000 for a low income unit and \$50,000 for a very low income unit to subsidize the creation of each accessory apartment. Such subsidy may be used to fund actual construction costs or to provide compensation for the reduced rental rates needed to ensure the affordability of the unit. Prior to the grant of such subsidy, the property owner shall enter into a written agreement with the Borough to ensure that (i) the subsidy is used to create the accessory apartment and (ii) the apartment meets requirements of this ordinance and all applicable regulations governing accessory apartments in effect at the time of creation.
2. Affordability controls shall be established for each accessory apartment created in accordance with the provisions of this ordinance. Such affordability controls shall remain in place for a minimum of ten (10) years and shall be included in a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located. Such deed or declaration of covenants shall run with the land and limit the subsequent rental or sale of the unit so as to ensure the continued affordability of the unit until the expiration of affordability controls.
3. Accessory apartments shall maintain affordability for either moderate- or low-income households in accordance with applicable regional income limits. The maximum rent for accessory apartments, inclusive of the cost of utilities, shall be affordable to households earning no more than sixty percent (60%) of area median income. Accessory apartments for low-income households shall be affordable to households earning no more than fifty percent (50%) of area median income. Accessory apartment for very low income households shall be affordable to households earning no more than thirty percent (30%) of area median income. The rents of accessory apartments shall be based on the number of bedrooms in accordance with N.J.A.C. 5:80-26.4.
4. The rents of all accessory apartments, inclusive of utilities, created through the Borough's accessory apartment program shall be distributed such that the average rents do not exceed 57.5 percent of median income. The average affordability of accessory apartments within the Borough shall be verified and maintained by the Borough's administrative agent.
5. Accessory apartments may be age restricted provided that each age restricted accessory apartment is applied toward the Borough's age restricted cap. Any accessory apartment may be deemed ineligible to be age restricted by the Borough if the Borough's age restricted cap has been met.

d. Administration

1. The Borough of Manasquan shall administer or designate an administrative entity to administer the Borough's accessory apartment program. The administration of the accessory apartment program shall include advertising and affirmatively marketing the accessory apartments, completing income qualification activities for prospective renters, determining monthly rents and annual rental increases, maintaining a waiting list, distributing the subsidy used to create or maintain the affordability of the accessory apartments, securing certificates of occupancy, qualifying properties for the appropriateness of accessory apartments, administering the application process, filing deed restrictions and/or covenants, ensuring the average affordability of the Borough's accessory apartment program, and preparing and filing monitoring reports as required.

2. The Borough shall only deny an application for an accessory apartment if the project does not conform to applicable State affordable housing provisions, the Borough's development ordinance, or this ordinance. All application denials shall be in writing and shall clearly state the reason(s) for denial.

e. Application Submission Requirements

1. Applicants seeking to create an accessory apartment shall submit the following to the Borough:
 - (a) A site plan prepared in accordance with the requirements of §35-20 of the Borough Zoning Ordinance, except that the applicant may request a waiver of information pursuant to §35-20.4 (Waiver of Information) of the Borough Zoning Ordinance. Such request for waiver shall be made in writing and shall be submitted with a sketch site plan in lieu of a full site plan. The Borough Engineer shall evaluate the applicant's submission package and shall advise the applicant in writing whether the applicant's submission is sufficient or whether any additional information is required to evaluate the applicant's proposal.
 - (b) Floor plan(s) showing the location and size of the proposed accessory apartment and the relationship of the unit to the primary dwelling(s) within the building or located in another structure on the same property.
 - (c) Architectural elevations depicting all modifications to the exterior building façade(s).

f. Severability

1. If any provision of this ordinance is determined to be invalid by a court of competent jurisdiction, then such provisions shall be severed and the remaining provisions of this ordinance shall continue to be valid.

SECTION 3. 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 4. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Manasquan, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Manasquan are hereby ratified and confirmed, except where inconsistent with the terms hereof.

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 Manasquan for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64.

SECTION 6. Upon final adoption, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16.

SECTION 7. This ordinance shall become effective following its final passage and publication according to law.

NOTICE

PUBLIC NOTICE IS HEREBY GIVEN that Ordinance No. 2284-19 is being introduced at a meeting of the Mayor and Council of the Borough of Manasquan on the 4th day of March 2019, and read for the first time. The said Ordinance is going to be considered for final passage by the Mayor and Council at Borough Hall, 201 East Main Street, Manasquan, NJ 08736 at 7:00 p.m. on the 18th day of March 2019. At such time and place, or at any such time or place to which said meeting may be adjourned, all interested persons will be given an opportunity to be heard concerning said ordinance. A copy of this ordinance can be obtained without cost by any member of the general public at the office of the Municipal Clerk in Borough Hall between the hours of 9:00 a.m. and 4:00 p.m. on Monday through Friday, except on legal holidays.

BARBARA ILARIA, RMC, CMC
Municipal Clerk

Mark G. Kitrick, Esquire
Municipal Attorney
2329 Route 34 South
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Manasquan, NJ 08736

Passed on First Reading and Introduction: March 4, 2019
Approved on Second Reading and Final Hearing: March 18, 2019

Edward Donovan
Mayor