

ORDINANCE NO. 12, 2018

AN ORDINANCE AMENDING, REVISING AND SUPPLEMENTING CHAPTER 277, ZONING OF THE CODE OF THE CITY OF LINWOOD TO CLASSIFY ACCESSORY APARTMENTS AS CONDITIONAL USES IN ALL RESIDENTIAL ZONES FOR THE PURPOSE OF THE CITY OF LINWOOD'S AFFORDABLE HOUSING OBLIGATION AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED THE PROVISIONS OF WHICH ARE INCONSISTENT THEREWITH

BE IT ORDAINED, by the Common Council of the City of Linwood, County of Atlantic and State of New Jersey as follows:

WHEREAS, the purpose of this section of the City of Linwood's Zoning Ordinance is to establish accessory apartments as a conditional use in Linwood. It is the City of Linwood's intention that any accessory apartment, unless previously constructed in accordance with Linwood's Zoning Ordinance and explicitly acknowledged as an accessory apartment in the tax assessor's records, is permitted as a conditional use only if it is constructed expressly for the purpose of assisting the City of Linwood in meeting its affordable housing obligation. An accessory apartment constructed for this purpose must, at the time of construction, meet all applicable requirements as defined by relevant Council on Affordable Housing (COAH) regulations and the Uniform Housing Affordability Controls (UHAC) rules. Additional conditions as defined within the section also apply; and

WHEREAS, an illegal accessory apartment may be eligible for credit if the illegal accessory apartment meets the Conditions in (b) below. The monetary contribution for a new accessory apartment is not required for an illegal accessory apartment to become eligible for credit..

BE IT ORDAINED by the Common Council of the City of Linwood that Chapter 277, Zoning, of the Code of the City of Linwood be and hereby is amended to add the following new section:

SECTION 1:

13-12 **Accessory Apartments.**

- (a) **Definition:** 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 accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.
- (b) **Conditions for Accessory Apartments as Conditionally Permitted Uses:**

Conditions: Accessory apartments shall meet the following conditions:

1. The application submitted to the Construction Office shall include the following:
 - A. Name and address of owner.
 - B. Name, address, income verification of the proposed occupant of the accessory unit (if known).
 - C. Floor plan of sketch
 - D. Current property survey.
2. Accessory apartments shall be allowed in all residential zones.
3. The minimum lot size and dimensional requirements shall be in accordance with the zone in which the property is located for accessory apartments constructed in new dwellings.
4. Accessory apartments may be created within existing single-family residences or accessory buildings, provided there is no expansion of the existing structure's exterior outline.
5. There shall be no more than one (1) accessory apartment per single-family dwelling on each lot.
6. The structures shall be in full compliance with all applicable health and construction codes.
7. Construction of accessory apartments shall be in full compliance with all applicable environmental regulations including Linwood City's Stormwater Management Ordinance.
8. Each accessory apartment shall be a minimum of five hundred (500) square feet. It may not occupy more than thirty-five percent (35%) of the total square footage of the house.

9. Each accessory apartment shall have a minimum of two (2) rooms and provide living, sleeping, cooking and bathroom facilities. Direct access to the outside or a hall with direct access to the outside shall be provided. The access door shall not alter the character of the exterior façade of the house.
10. The occupant shall meet the established income limitations of the low or moderate income guidelines for Linwood.
11. The owner shall submit an affidavit of continuing use every two (2) years to the Linwood City Clerk.
12. Parking shall be consistent with the parking requirements of Linwood.
13. Linwood acknowledges the need to provide its fair share of housing for low and moderate income households.

Any property owner applying for an accessory apartment under this section shall affirmatively demonstrate that the accessory apartment is to be rented to and occupied by households meeting COAH's and UHAC's affordable housing criteria.

14. Accessory apartment rents shall be consistent with COAH and UHAC rules. The following minimum subsidies shall be offered for the creation of an accessory apartment: \$35,000 for a very low income apartment, \$25,000 for a low income apartment and \$20,000 for a moderate income apartment.
15. Ten year affordability controls shall be imposed via a deed restriction or other instrument acceptable to the City Attorney and the Court.
16. In the event that the accessory apartment is located in a structure which is detached from the primary residence, the property owner shall explicitly affirm via deed restriction that the property may not be further subdivided to separate the accessory apartment and any associated land as a new building lot unless such subdivision can be accomplished in full accordance with Linwood City's density requirements, minimum setbacks, dimensional requirements, and all other applicable subdivision constraints.
17. The property owner shall demonstrate that required deed restrictions are properly filed with the Atlantic County Clerk's Office prior to issuance of zoning or building permits.

18. If, following completion of the 10 year affordability controls period, an accessory apartment constructed in accordance with this section of the Linwood City Zoning Ordinance is no longer subject to Court requirements or restrictions, the apartment shall be considered a permitted conditional use subject to the remaining conditions established within this Ordinance section.
19. Accessory apartments shall be affirmatively marketed with random selection of the occupants.

(c) **Illegal Accessory Apartments:** An illegal accessory apartment shall be eligible for credit if the illegal accessory apartment meets the Conditions in (b) above. The monetary contribution for a new accessory apartment is not required for an illegal accessory apartment to become eligible for credit. An existing occupant in an illegal accessory apartment may be permitted to remain in the apartment provided that when that occupant leaves the accessory apartment the apartment shall be affirmatively marketed with random selection of the occupants, and the 10 year affordability control period shall only begin upon reoccupancy of the apartment after this marketing process.

SECTION 2: All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 3: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4: This Ordinance shall take effect upon passage and publication as provided by law.

SECTION 5: The City Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this Ordinance to the County Planning Board and to all others entitled thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon the adoption of this Ordinance after public hearing thereon, the City Clerk is further

directed to publish notice of the passage thereof and file a copy of the Ordinance as finally adopted with the Atlantic County Planning Board as required by N.J.S.A. 40:55D-16.

<i>FIRST READING:</i>	<i>July 11, 2018</i>
<i>PUBLICATION:</i>	<i>July 16, 2018</i>
<i>PASSAGE:</i>	<i>August 8, 2018</i>

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on, July 11, 2018 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on August 8, 2018.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR