**ORDINANCE NO. RO-04-19**

**AN ORDINANCE AMENDING SECTION 217-56, ACCESSORY**

**APARTMENT STANDARDS, OF CHAPTER 217, ZONING, OF THE**

**WASHINGTON TOWNSHIP ZONING ORDINANCE**

**WHEREAS,** on December 20, 2017, the Township of Washington (“Township:”) entered into a Settlement Agreement with Fair Share Housing Center (“FSHC”) regarding its affordable housing obligations (“Settlement Agreement”), which Settlement Agreement was approved in an Order on Fairness and Preliminary Compliance Hearing filed on March 26, 2018 in the declaratory judgment action captioned In the Matter of the Application of the Township of Washington, Superior Court of New Jersey, Law Division, Morris County, Docket No. MRS-L-1639-15 (“Order”); and

**WHEREAS,** the Township desires to amend and update its existing Accessory Apartment Standards Ordinance to conform to current regulations and standards for affordable accessory apartments, as well as the terms of the Settlement Agreement and Order.

**NOW, THEREFORE, BE IT ORDAINED,** by the Governing Body of the Township of Washington, County of Morris, State of New Jersey as follows:

**SECTION ONE.** Section 217-56, Accessory apartment standards, of Chapter 217, Zoning, of Washington Township Zoning Ordinance is hereby deleted in its entirety and replaced with the following:

§217-56. Affordable accessory apartment standards.

A. Subject to the limitations set forth in Subsection [B](https://www.ecode360.com/11404767#11404767) hereinbelow, any existing single-family detached dwelling located in any single-family residential zone may be converted to contain not more than one affordable accessory apartment, provided that the following standards and conditions are met:

[(1)](https://www.ecode360.com/11404757#11404757)At the time of the initial occupancy of the affordable accessory apartment and for at least 10 years thereafter, the affordable accessory apartment shall be rented only to a very low-, low- or moderate-income household as those terms are defined in the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., the applicable requirements of the Courts of the State of New Jersey and the applicable rules of the former New Jersey Council on Affordable Housing, including N.J.A.C. 5:93-1.1 et seq., as supplemented and amended.

[(2)](https://www.ecode360.com/11404758#11404758)The affordable accessory apartment and the existing unit shall have separate doors with direct access to the outdoors.

[(3)](https://www.ecode360.com/11404759#11404759)The gross area of the affordable accessory apartment shall be at least 350 square feet.

[(4)](https://www.ecode360.com/11404760#11404760)The affordable accessory apartment shall have living/sleeping space, cooking facilities, a kitchen sink and a complete sanitary facility for the exclusive use of its occupants. It shall consist of not less than two rooms, one of which shall be a full bathroom, but shall have no more than two bedrooms.

(a) The affordable accessory apartment may be served by the same individual on-site septic system as the dwelling within which the affordable accessory apartment is created, however, the applicant for an affordable accessory apartment shall submit proof of Board of Health approval of the adequacy of the individual on-site septic system.

[(5)](https://www.ecode360.com/11404761#11404761)At least one off-street parking space, in addition to the two required for the existing dwelling, shall be provided.

[(6)](https://www.ecode360.com/11404762#11404762)The conversion shall not result in the placement of an additional door on the front facade of the structure.

[(7)](https://www.ecode360.com/11404763#11404763)The applicant shall provide a plan for the proposed conversion which provides sufficient information for the Zoning Enforcement Officer to determine that all ordinance requirements will be met.

[(8)](https://www.ecode360.com/11404764#11404764)The dwelling structure shall comply with all requirements for two-family dwellings in accordance with the New Jersey Building Code and all the laws and housing regulations of the state and the Township.

[(9)](https://www.ecode360.com/11404765#11404765)There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the affordable accessory apartment is located running with the land and limiting the subsequent rental or sale of the affordable accessory apartment. The deed or declaration of covenants and restrictions shall be reviewed and approved by the Township Attorney prior to recording. The deed or declaration of covenants and restrictions must be recorded prior to issuance of a Certificate of Occupancy for the affordable accessory apartment. If the affordable accessory apartment is not occupied by a very low-, low- or moderate-income household as required by Subsection [A(1)](https://www.ecode360.com/11404757#11404757) above, then the affordable accessory apartment shall be removed and the structure shall comply with all requirements for a single-family detached dwelling applicable to the zone in which it is located.

[(10)](https://www.ecode360.com/11404766#11404766)During the month of January of each year, the owner shall provide to the Zoning Enforcement Officer, on forms provided, a certification that the above standards and conditions are in effect.

[B.](https://www.ecode360.com/11404767#11404767)Subject to the limitations set forth in Subsection [C](https://www.ecode360.com/11404777#11404777) hereinbelow, any parcel of land located in any single-family residential zone may be improved to contain not more than one affordable accessory apartment located within the principal residential structure or in an accessory building on the parcel, provided that the following standards and conditions are met:

(1) There shall be a principal residential structure on the parcel which contains not more than one dwelling unit.

[(2)](https://www.ecode360.com/11404769#11404769) At the time of the initial occupancy of the affordable accessory apartment and for at least 10 years thereafter, the affordable accessory apartment shall be rented only to a very low-, low- or moderate-income household as those terms are defined in the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., the Uniform Affordability Controls, N.J.A.C. 5:80-26.1 et seq., the applicable requirements of the Courts of the State of New Jersey and the applicable rules of the former New Jersey Council on Affordable Housing, including N.J.A.C. 5:93-1.1 et seq., as supplemented and amended.

[(3)](https://www.ecode360.com/11404770#11404770)The gross floor area of the affordable accessory apartment shall be at least 350 square feet, but shall not exceed 800 square feet. The affordable accessory apartment shall have a living/sleeping space, cooking facilities, a kitchen sink and a complete sanitary facility for the exclusive use of its occupants. It shall consist of not less than two rooms, one of which shall be a full bathroom, but shall have no more than two bedrooms.

(a) The affordable accessory apartment may be served by the same individual on-site septic system as the dwelling within which the affordable accessory apartment is created, however, the applicant for an affordable accessory apartment shall submit proof of Board of Health approval of the adequacy of the individual on-site septic system.

[(4)](https://www.ecode360.com/11404771#11404771)The affordable accessory apartment may be located over an existing or proposed detached garage that serves, or is intended to serve, the principal residential structure on the parcel or may be located within an existing accessory building not used to meet the garage requirement for the principal residential use.

[(5)](https://www.ecode360.com/11404772#11404772)In the case of the new accessory buildings, bulk requirements for the applicable zone shall be met.

[(6)](https://www.ecode360.com/11404773#11404773)At least one off-street parking space, in addition to the two required for the existing principal dwelling on the parcel, shall be provided.

[(7)](https://www.ecode360.com/11404774#11404774)The applicant shall provide a plan for the proposed development which provides sufficient information for the Construction Official to determine that all ordinance requirements will be met.

(8) There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the affordable accessory apartment is located running with the land and limiting the subsequent rental or sale of the affordable accessory apartment. The deed or declaration of covenants and restrictions shall be reviewed and approved by the Township Attorney prior to recording. The deed or declaration of covenants and restrictions must be recorded prior to issuance of a Certificate of Occupancy for the affordable accessory apartment. If the affordable accessory apartment is not occupied by a very low-, low- or moderate-income household as required by Subsection [B(2)](https://www.ecode360.com/11404769#11404769) above, then the affordable accessory apartment shall be removed.

[(9)](https://www.ecode360.com/11404776#11404776)During the month of January of each year, the owner shall provide to the Zoning Enforcement Officer, on forms provided, a certification that the above standards and conditions are in effect.

[C.](https://www.ecode360.com/11404777#11404777) There shall be not more than one affordable accessory apartment created per Lot.

D. The maximum number of affordable accessory apartments permitted under this section shall be the number that the Township is permitted to apply toward its fair share obligation in accordance with the applicable statutes, regulations and requirements of the Courts of the State of New Jersey governing the Township’s affordable housing obligation.

[E.](https://www.ecode360.com/11404778#11404778)Building permit fees and all similar Township fees shall be waived in all cases involving affordable accessory apartment development under this Section.

**SECTION TWO.** All Ordinances of the Township of Washington which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

**SECTION THREE**. If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

**SECTION FOUR.** This Ordinance shall take effect as provided by law.

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| ATTEST: |  | TOWNSHIP OF WASHINGTON COUNTY OF MORRIS  STATE OF NEW JERSEY |
|  |  | By: |
| Nina DiGregorio, Township Clerk |  | Matthew T. Murello, Mayor |

**C E R T I F I C A T I O N**

I, Nina DiGregorio, Township Clerk of the Township of Washington, County of Morris, State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance introduced, read by title and passed on the first reading at the regular meeting of the Township held on February 13, 2019 and adopted by the Governing Body at a regular meeting of the Township held on March 18, 2019.

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Nina DiGregorio, Township Clerk