

ASSEMBLY, No. 4370

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 16, 2024

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

SYNOPSIS

Concerns development of accessory dwelling units and related municipal land use regulations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning accessory dwelling units and supplementing
2 P.L.1975, c.291 (C.40:55D-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. The Legislature finds and declares that:

8 (1) Accessory dwelling units are a valuable form of housing and
9 present a way to expand the State's housing supply that is both cost-
10 effective and consistent with sound planning and environmental
11 principles.

12 (2) Accessory dwelling units provide housing for family
13 members, the elderly, in-home health care providers, individuals
14 with disabilities, and others, often at below-market prices within
15 existing neighborhoods with little to no cost to municipalities.

16 (3) Homeowners who develop accessory dwelling units can
17 benefit from added income and an increased sense of security.

18 (4) Allowing accessory dwelling units in single-family and two-
19 family residential zones will make it possible to expand New
20 Jersey's rental housing stock, and meet current and future housing
21 demand.

22 (5) Accessory dwelling units offer low-cost housing within
23 existing neighborhoods while maintaining the architectural
24 character of a neighborhood.

25 (6) Accessory dwelling units should therefore be considered an
26 essential component of New Jersey's housing supply.

27 b. It is the intent of the Legislature that municipal land use
28 regulations shall provide for the creation of accessory dwelling
29 units consistent with the provisions of P.L. , c. (C.)
30 (pending before the Legislature as this bill), and that no provision
31 of a regulation shall restrict the ability of a property owner to
32 develop an accessory dwelling unit consistent with the provisions of
33 P.L. , c. (C.) (pending before the Legislature as this bill).

34

35 2. As used in P.L. , c. (C.) (pending before the
36 Legislature as this bill):

37 "Accessory dwelling unit" means a second dwelling unit that:

38 a. is attached or detached, or located within or appurtenant to a
39 permitted principal dwelling unit or single-family dwelling unit of
40 greater square footage;

41 b. is located on the same lot as a permitted principal dwelling
42 unit; and

43 c. has facilities and provisions for independent living,
44 including space for sleeping, food preparation, and sanitation

45 "Accessory structure" means a structure that is accessory and
46 incidental to a dwelling located on the same lot.

47 "Applicant" means a developer or homeowner submitting an
48 application for development of an accessory dwelling unit.

1 3. a. An accessory dwelling unit shall be permitted on a lot
2 that contains a single-family dwelling. Municipalities shall adopt or
3 amend existing land use regulations to authorize a person to
4 develop an accessory dwelling unit on a lot owned by the person,
5 and located within an area meeting the requirements of subsection
6 c. of this section, in a manner consistent with the standards and
7 procedures set forth in P.L. , c. (C.) (pending before the
8 Legislature as this bill).

9 b. A municipal zoning ordinance may require a principal
10 dwelling unit with an accessory dwelling unit to be subject to the
11 same dimensional controls and other controls, except for residential
12 density controls, as are required for the same principal dwelling unit
13 without the accessory dwelling unit, as long as such restrictions do
14 not prohibit the construction of an accessory dwelling unit on any
15 individual lot that contains a single-family dwelling.

16 c. Land use regulations adopted or amended pursuant
17 to P.L. , c. (C.) (pending before the Legislature as this bill)
18 shall provide that an accessory dwelling unit is a permitted use as of
19 right on a lot if a primary dwelling exists or is being proposed on
20 the lot, and the lot is located within a zone in which a single-family
21 dwelling or a two-family dwelling is permitted under the municipal
22 land use regulations.

23 d. A municipal zoning ordinance shall be prohibited from
24 requiring:

25 (1) a passageway between an accessory dwelling unit and a
26 principal dwelling unit;

27 (2) an exterior door for an attached accessory dwelling;

28 (3) any more than one parking space for an accessory dwelling
29 unit; existing and available on-street parking shall satisfy this
30 requirement; no parking space shall be required if the accessory
31 dwelling unit is located within one half-mile of public
32 transportation service;

33 (4) a familial, marital, or employment relationship between
34 occupants of a principal dwelling unit and an accessory dwelling
35 unit;

36 (5) a minimum age requirement for occupants of an accessory
37 dwelling unit;

38 (6) a separate billing of utilities otherwise connected to, or used
39 by, the principal dwelling unit;

40 (7) a minimum floor area for any dwelling unit that is greater
41 than the minimum floor area set pursuant to the "State Uniform
42 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.)
43 and any regulations adopted thereafter; or

44 (8) periodic renewals for permits for accessory dwelling units;

45 e. Nothing in this section shall exempt an accessory dwelling
46 unit from:

1 (1) applicable building code requirements pursuant to the “State
2 Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119
3 et seq.);

4 (2) the ability of a municipality to prohibit or limit the use of an
5 accessory dwelling unit for short-term rentals or vacation stays; or

6 (3) sewerage system related requirements where a private
7 sewerage system is being used, provided that approval for an
8 accessory dwelling unit shall not be unreasonably withheld.

9 f. A municipal agency shall not condition the approval of an
10 accessory dwelling unit on the correction of a nonconforming use,
11 structure, or lot, or require the installation of fire sprinklers in an
12 accessory dwelling unit if fire sprinklers are not required for the
13 principal dwelling unit located on the same lot.

14 g. An accessory dwelling unit shall not be considered a new
15 residential use for the purpose of calculating or imposing
16 connection fees or capacity charges for a purveyor of water and
17 sewer service, unless the accessory dwelling unit is constructed
18 together with a new single-family dwelling unit on the same lot, or
19 requires the installation of a new or separate utility connection
20 directly to the accessory dwelling unit.

21 h. If a garage or other covered parking structure or any parking
22 space within the structure is removed in conjunction with the
23 construction of an accessory dwelling unit or converted to an
24 accessory dwelling unit, the municipality shall not require that those
25 off-street parking spaces be replaced.

26 i. A municipality may include an owner-occupancy
27 requirement in its enabling ordinance that requires the main unit or
28 the accessory unit to be occupied by the property owner, but may
29 not dictate which unit shall be owner-occupied. The ordinance may
30 state penalties and remedies for non-compliance.

31 j. A municipality may not impose additional standards beyond
32 those provided for in this section related to the regulation of
33 accessory dwelling units.

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35 4. a. (1) An application to develop an accessory dwelling unit
36 shall be considered and approved as a ministerial action without a
37 public hearing, and without review beyond what is necessary to
38 determine compliance with the provisions of P.L. , c. (C.)
39 (pending before the Legislature as this bill) or, if the municipality
40 has adopted land use regulations consistent with those provisions,
41 the municipality’s land use regulations.

42 (2) If the municipal agency does not act upon a complete
43 application within the 60-day time period, the application shall be
44 deemed approved unless an applicant agrees to toll the 60-day time
45 period allowed for a municipal agency to render a decision on an
46 application. A municipal agency may charge a reasonable fee to
47 cover the costs associated with reviewing and approving an
48 application to develop an accessory dwelling unit.

1 Construction Code Act” and any regulations adopted thereafter
2 (UCC); or

3 8) periodic renewals for permits for accessory dwelling units.

4 Nothing in the bill is to be interpreted to exempt an accessory
5 dwelling unit from:

6 1) applicable building code requirements pursuant to the UCC;

7 2) the ability of a municipality to prohibit or limit the use of an
8 accessory dwelling unit for short-term rentals or vacation stays; or

9 3) sewerage system related requirements where a private
10 sewerage system is being used, provided that approval for an
11 accessory dwelling unit is not to be unreasonably withheld.

12 A municipal agency is not to condition the approval of an
13 accessory dwelling unit on the correction of a nonconforming use,
14 structure or lot, or require the installation of fire sprinklers in an
15 accessory dwelling unit if sprinklers are not required for the
16 principal dwelling unit located on the same lot.

17 An accessory dwelling unit is not to be considered a new
18 residential use for the purpose of calculating or imposing
19 connection fees or capacity charges for a purveyor of water and
20 sewer service, unless the accessory dwelling unit is constructed
21 together with a new single-family dwelling unit on the same lot, or
22 requires the installation of a new or separate utility connection
23 directly to the accessory dwelling unit.

24 The bill provides that if a garage or other covered parking
25 structure or any parking space within the structure is removed in
26 conjunction with the construction of an accessory dwelling unit or
27 converted to an accessory dwelling unit, the municipality is not to
28 require that those off-street parking spaces be replaced.

29 A municipality may include an owner-occupancy requirement in
30 its enabling ordinance that requires the main unit or the accessory
31 unit to be occupied by the property owner, but may not dictate
32 which unit is to be owner-occupied. The ordinance may provide for
33 penalties and remedies for non-compliance.

34 The bill provides that a municipality may not impose additional
35 standards beyond those provided for in this bill related to the
36 regulation of accessory dwelling units.

37 The bill provides that an application to develop an accessory
38 dwelling unit is to be considered and approved as a ministerial
39 action without a public hearing, and without review beyond that
40 necessary to determine compliance with the provisions of the bill
41 or, if the municipality has adopted land use regulations consistent
42 with those provisions, the municipality’s land use regulations.

43 If the municipal agency does not act upon a complete application
44 within the 60-day time period, the bill provides that the application
45 is to be deemed approved unless an applicant agrees to toll the 60-
46 day time period allowed for a municipal agency to render a decision
47 on an application. A municipal agency may charge a reasonable fee

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1 to cover the costs associated with reviewing and approving an
2 application to develop an accessory dwelling unit.

3 Lastly, the bill provides that a municipality is not to interpret and
4 apply a provision of any other municipal ordinance, policy, or
5 regulation so to delay or deny approval of an application to develop
6 an accessory dwelling unit.