Ord.#25-2013

AN ORDINANCE TO AMEND AND SUPPLEMENT THE RR-AA AND RR-A RURAL RESIDENTIAL ZONE DISTRICTS IN CHAPTER 400, "LAND USE" TO ESTABLISH A NEW CONDITIONAL USE TO CONSIST OF ACCESSORY APARTMENTS EXCLUSIVELY FOR THE IMPLEMENTATION OF THE MOUNT OLIVE ACCESSORY APARTMENT PROGRAM IN ACCORDANCE WITH THE TOWNSHIP'S THIRD ROUND HOUSING ELEMENT & FAIR SHARE PLAN & SPENDING PLAN.

WHEREAS, the Mount Olive Planning Board has adopted the Township's Third Round Housing Element and Fair Share Plan and Spending Plan in accordance with the requirements of N.J.A.C. 5:96 and N.J.A.C. 5:97 and did petition the Council on Affordable Housing [COAH]for substantive certification on November 5, 2009; and

WHEREAS, the Township of Mount Olive did submit a request to COAH on April 27, 2012 to modify the Spending Plan pursuant to N.J.A.C. 5:97-8.11; and

WHEREAS, COAH did approve the modified Spending Plan on or about June 14, 2012; and

WHEREAS, the Township's Spending Plan assigns a total of $320,000 from the Mount Olive Affordable Housing Trust Fund to an Accessory Apartment program; and

WHEREAS, the Township Council did authorize a contract with Piazza & Associates to serve as the Township's Administrative Agent for the accessory apartment program as required pursuant to N.J.A.C. 5:97-6.8 (e)3 on December 18, 2012 and did enter a contract with same on January 2, 2013; and

WHEREAS, the Mount Olive Planning Board did adopt a Reexamination Report of the Township's Master Plan and development regulations pursuant to N.J.S.A. 40:55D-89 on June 20, 2013 which includes a recommendation to establish accessory apartments as a conditional use in the RR-AA and RR-A zone districts for the express purpose of implementing the accessory apartment program for low and moderate income households in accordance with N.J.A.C. 5:97-6.8 "accessory apartment program"; and

WHEREAS, the Township Council of the Township of Mount Olive concurs with the recommendations put forward by the Planning Board and does find that the public health, safety, morals, and general welfare of the community shall be promoted by the proposed new accessory apartment program for the purpose of creating housing opportunities for low and moderate-income families.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Mount Olive, County of Morris and State of New Jersey that the Township's Land Use Ordinance be amended to add a new Conditional Use category in the RR-AA and RR-A: Rural Residential District to permit accessory apartments for qualified low and moderate-income households in accordance with specific conditional use standards and in compliance with the requirements set forth in the Mount Olive Township Accessory Apartment Operating Manual.

Section 1
ARTICLE II, "Definitions", §400-6 shall be amended to add the following:

ACCESSORY APARTMENT – 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.

Section 2
ARTICLE VII, "Zoning District Use and Bulk Regulations", §400-100, "Rural and Residential Districts" is hereby amended and supplemented as follows:

§400-100, C, RR-AA: Rural Residential District:
Subsection (3) shall be amended to include new subsection (g) to read as follows:

(g) Accessory Apartment as defined in §400-6 and subject to the conditional use standards in §400-100, C(6)

Subsection (5)(a) shall be amended to read as follows:

The maximum overall residential density shall not exceed one dwelling unit for every five acres <u>except for affordable accessory apartments approved as a conditional use in accordance with the standards established in this Chapter</u>. Developments which are not developed under the residential cluster principle shall be permitted a lot area of four acres and would be subject to the standards set forth in the Schedule of Limitations.

A new Subsection (6) shall be added to read as follows:

(6) Conditional use standards for accessory apartments shall be as follows:

(a) Occupancy of accessory apartments shall be restricted to low or moderate income households within Housing Region 2 as defined in N.J.A.C. 5:96-1.3 and pursuant to the regulations established in N.J.A.C. 5-97-6.8, and in accordance with the standards set forth in the Mount Olive Accessory Apartment Operating Manual.

(b) Compliance with the requirements set forth in the Mount Olive Accessory Apartment Operating Manual, including but not limited to, affirmative marketing, determination of initial rent and subsequent rent increases, tenant selection and affirmative marketing.

(c) An accessory apartment shall only be permitted on a lot conforming to the zone district minimum acreage requirements and only within an existing principal or accessory building in compliance with the RR-AA zoning requirements.

(d) Accessory apartments shall only be permitted on properties where the primary dwelling is owner-occupied.

(e) Each accessory apartment shall have an affordability control in place for a period not less than ten (10) years which shall commence on the date of the issuance of a Certificate of Occupancy, in a form acceptable to the Township Attorney and filed with the appropriate Township and County offices.

(f) Compliance with the off street parking requirements of the Residential Site Improvement Standards (N.J.A.C. 5:21-1.1 et seq.)

(g) The accessory apartment shall be designed with a separate and independent ingress and egress apart from the primary residence subject to all State and Township code requirements.

(h) Compliance with State and Township requirements for provision of potable water and sanitary waster disposal.

(i) The minimum gross floor area for each accessory apartment shall consist of at least four hundred (400) square feet.

(j) The total number of accessory apartments shall not exceed the permitted number of affordable accessory units as established in the Township's third round Housing Element and Fair Share Plan and Spending Plan, and shall be subject to availability of funds in the Township's Affordable Housing Trust Fund. As of the date of this Ordinance the limit for said units shall be sixteen (16) cumulatively in the RR-AA and RR-A zone districts.

Section 3

§400-100, D, RR-A: Rural Residential District, subsection (3), shall be amended to include new subsection (g) as follows:

(g) Accessory Apartment as defined in §400-6 and subject to the conditional use standards in §400-100, D(6)

Subsection (5)(a) shall be amended to read as follows:

> The maximum overall residential density shall not exceed one dwelling unit for every three acres <u>except for affordable accessory apartments approved as a conditional use in accordance with the standards established in this Chapter</u>. Developments which are not developed under the residential cluster principle shall be permitted a lot area of 100,000 square feet and would be subject to the standards set forth in the Schedule of Limitations.

A new Subsection (6) shall be added to read as follows:

(6) Conditional use standards for accessory apartments shall be as follows:

(a) Occupancy of accessory apartments shall be restricted to low or moderate income households within Housing Region 2 as defined in N.J.A.C. 5:96-1.3, and pursuant to the regulations established in N.J.A.C. 5-97-6.8, and in accordance with the standards set forth in the Mount Olive Accessory Apartment Operating Manual.

(b) Compliance with the requirements set forth in the Mount Olive Accessory Apartment Operating Manual, including but not limited to, affirmative marketing, determination of initial rent and subsequent rent increases, tenant selection, and affirmative marketing.

(c) An accessory apartment shall only be permitted on a lot conforming to the zone district minimum acreage requirements and only within an existing principal or accessory building in compliance with the RR-A zoning requirements.

(d) Accessory apartments shall only be permitted on properties where the primary dwelling is owner-occupied.

(e) Each accessory apartment shall have an affordability control in place for a period not less than ten (10) years which shall commence on the date of the issuance of a Certificate of Occupancy, in a form acceptable to the Township Attorney and filed with the appropriate Township and County offices.

(f) Compliance with the off street parking requirements of the Residential Site Improvement Standards (N.J.A.C. 5:21-1.1 et seq.)

(g) The accessory apartment shall be designed with a separate and independent ingress and egress apart from the primary residence subject to all State and Township code requirements.

(h) Compliance with State and Township requirements for provision of potable water and sanitary waster disposal.

(i) The minimum gross floor area for each accessory apartment shall consist of at least four hundred (400) square feet.

(j) The total number of accessory apartments shall not exceed the permitted number of affordable accessory units as established in the Township's third round Housing Element and Fair Share Plan and Spending Plan, and shall be subject to availability of funds in the Township's Affordable Housing Trust Fund. As of the date of this Ordinance the limit for said units shall be sixteen (16) cumulatively in the RR-AA and RR-A zone districts.

Section 4

If any section or subsection of this ordinance shall be found or declared to be invalid, illegal or unconstitutional, that shall not affect the remainder thereof, which shall remain in full force and effect.

Section 5

This ordinance shall take effect upon final adoption, publication, and publication of a notice for final adoption and the filing of same with the Morris County Planning Board.

_____

Colleen Labow, Council President

ATTEST:

_____

Lisa M. Lashway, Township Clerk