

Ordinance #2020-16

AN ORDINANCE BY THE MUNICIPALITY OF PRINCETON MAKING ACCESSORY DWELLING UNITS A PERMITTED ACCESSORY USE IN ALL RESIDENTIAL ZONES AND AMENDING THE “CODE OF THE BOROUGH OF PRINCETON, NEW JERSEY, 1974” AND THE “CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968”

WHEREAS, under Princeton’s current zoning regulations, secondary residences are a permitted accessory use in all of the residential districts of the former Borough of Princeton, either as part of the principal dwelling or in a separate accessory structure, provided one of the units is occupied by the owner of the property; and

WHEREAS, flats are permitted in any district of the former Township of Princeton where single-family dwellings are allowed, in that the definitions of “dwelling” and “single-family structure” include flats and state that flats shall not be considered a separate dwelling provided either the flat or the primary dwelling is occupied by the owner of the property; and

WHEREAS, the Council wishes to replace the provisions regarding secondary residences in the former Borough and the provisions regarding flats in the former Township with new regulations that will allow accessory dwelling units in all Borough and Township zoning districts in which single-family dwellings are permitted, subject to uniform standards and with no home-owner occupancy requirement; and

WHEREAS, the purpose of these new regulations is to (a) facilitate the creation of new housing units as uses that are accessory to the principal residential use on the property—not a second principal use—, while respecting and complementing the traditional character and form of Princeton’s residential neighborhoods and streets; (b) support more efficient use of existing housing stock and infrastructure; (c) provide sustainable housing options that respond to changing family needs, smaller households, and increasing housing costs; (d) provide accessible housing for seniors and persons with disabilities; and (e) offer environmentally friendly housing choices with less average space per person and smaller associated carbon footprints; and

WHEREAS, the Council finds that enacting these regulations will further the public health, safety, morals and welfare;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of Princeton as follows:

1. Preamble. The preamble to this ordinance is hereby incorporated and made a part hereof as if restated in full.

2. Section 10B-241, “Definitions” of the “Code of the Township of Princeton, New Jersey, 1968” amended. Section 10B-241, Definitions, of the “Code of the Township of Princeton, New Jersey, 1968” (“Township Code”) is hereby amended by (1) deleting therefrom the definition of “flat”; (2) adding thereto the below new definitions entitled “accessory dwelling unit” and “dwelling unit, accessory”; and (3) amending the definitions therein of “Accessory building,” “dwelling unit” and “structure, single-family” to read as set forth below (new text is underlined thus; deleted text is struck through and in brackets [~~thus~~):

Accessory building. A structure, the use of which is customarily incidental and subordinate to that of the [~~main~~] principal building on the same lot, such as a detached garage, carport, barn, green house, woodshed, toolshed, or kennel [~~or summerhouse~~]. An accessory building may also contain an accessory dwelling unit as defined herein.

Accessory dwelling unit. See “Dwelling unit, accessory.”

Dwelling unit. A group of interrelated rooms in other than a dormitory which: (a) are intended or designed for the use of one family, (b) are separated from other space by lockable doors, (c) have access to the outdoors without crossing through any part of another dwelling unit and (d) have living and sleeping facilities, cooking facilities, fixed or portable, and complete sanitary facilities. [~~A flat shall not be considered a dwelling unit.~~]

Dwelling unit, accessory. A group of interrelated rooms that: (a) constitutes an entirely self-contained portion of a principal, one-family dwelling, or is located in an accessory building on the same lot as a principal, one-family dwelling; (b) is owned by the owner of the principal, one-family dwelling; (c) contains complete housekeeping facilities for only one family; (d) has no cooking facilities, food preparation facilities, sanitary facilities, or enclosed space in common with any other part of the building in which it is located, except vestibules, entrances, porches, garages, or laundry, heating or air conditioning rooms or equipment; and (e) complies with the provisions of section 10B-255(c)(3) of this Code.

Structure, single-family. A freestanding structure containing one dwelling unit only, or, if permitted in the district, one dwelling unit and one accessory dwelling unit. [~~only one primary dwelling unit. or only one dwelling unit and a flat.~~]

3. Township “flat ordinance” repealed. Section 10B-274 of the Township Code pertaining to flats is hereby repealed in its entirety.

4. Accessory dwelling units added as permitted accessory uses in all Township residential districts. Section 10B-255 of the Township Code is hereby amended to add accessory dwelling units as a permitted accessory use in residential districts R-A through R-H, and shall read as follows (new text is underlined thus; deleted text is struck through and in brackets [~~thus~~]):

Subdivision IV. Residence Districts.

Sec. 10B-255. Permitted uses.

The following uses are permitted in districts R-A through R-H, in addition to those permitted by Section 10B-253[~~, provided, that there is no nuisance factor~~]:

(a) Single-family houses.

(b) It shall be considered a single-family use to provide supportive personal and health services within a dwelling unit to persons residing in the dwelling unit.

(c) Accessory uses on the same lot with, and customarily incidental to, the foregoing permitted use.

(1) As used herein, a permitted accessory use shall include a home occupation; provided, as follows:

a. Only one such occupation shall be carried on per dwelling unit.

b. Such occupation shall be carried on within the principal building, and the floor area used for that purpose shall not exceed the equivalent of forty percent of the area of the ground floor or four hundred square feet, whichever is less.

c. There shall be at least one additional parking space available per home occupation, in addition to the required parking for the district.

d. Such occupation shall be carried on by a resident, with no regularly employed assistants or associates, except for residents living on the premises.

e. Articles sold or offered for sale shall be limited to those produced in the dwelling unit.

f. There shall be no exterior display, no exterior storage of materials, no exterior sign, and no other exterior indication of the home occupation or change in residential character of the principal building.

g. There shall be created no dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration; smoke, dust, odor or other form of air pollution; heat, cold or dampness, electromagnetic or other disturbance; glare; liquid or solid refuse or other wastes; or other objectionable substance, condition or element.

(2) As used herein, a permitted accessory use shall include the installation of solar panels, provided that:

- a. Said panels are affixed to an existing roof on an existing dwelling.
- b. Said panels are affixed within the existing footprint of the existing roof.
- c. Said panels do not increase the height of the existing roof by more than six [~~6~~] inches.

Solar panels complying with the requirements herein shall be exempt from height requirements, setback to height ratio, height to setback ratios, and required front, side and rear yard setbacks.

(3) As used herein, a permitted accessory use shall include an accessory dwelling unit, provided that:

- a. There shall be not more than one accessory dwelling unit per lot.
- b. The accessory dwelling unit shall be used only for residential purposes for one family.
- c. The size of the accessory dwelling unit shall not exceed 800 square feet or twenty-five percent of the total floor area of the principal dwelling unit, whichever is greater. If the accessory dwelling unit is fully handicapped accessible under New Jersey's

Barrier Free sub-code, the property shall be granted an increase of five percent of the total maximum floor area allowed, which can be applied either to the principal dwelling or to the accessory dwelling, or both.

d. There shall not be more than three habitable rooms per accessory dwelling unit.

e. There shall be no external entrance that faces a street and that is separate from any other external entrance to any building on the same lot facing the same street.

f. The accessory dwelling unit shall not eliminate the required parking for the principal single-family dwelling on the lot. No additional off-street parking shall be required for accessory dwelling units that contain two habitable rooms. One additional off-street parking space shall be required for accessory dwelling units that contain three habitable rooms.

g. Stairways leading to an accessory dwelling unit located above the ground floor of a principal single-family dwelling shall be enclosed or located at the rear of the principal single-family dwelling.

h. Balconies and decks associated with an accessory dwelling unit shall face the interior of the lot.

i. Rooftop decks associated with an accessory dwelling unit shall be permitted, subject to compliance with the applicable zoning district's setback requirements for principal structures.

j. An accessory dwelling unit that is attached to the principal single-family dwelling shall utilize the same exterior materials and colors as the principal single-family dwelling.

k. Except as set forth herein and in subsection 10B-255(c)(3)h. above, a detached accessory dwelling unit shall comply with the bulk requirements pertaining to accessory structures for the zoning district in which it is located, except that in no case shall the distance between the detached accessory dwelling unit and the habitable portion of the principal single-family dwelling be less than five feet. The foregoing notwithstanding, ADUs may be constructed on any undersized lot in existence as of July 1, 2020 provided the proposed development complies with all other applicable bulk requirements for the district in which the property is located.

l. Any accessory dwelling unit in existence as of July 1, 2020 that

does not comply with the requirements of this subsection 10B-255(c)(3) may continue to be used, and any such accessory dwelling unit may be altered or reconstructed, provided that the alteration or reconstruction does not create any new or additional nonconformities.

m. In the event of any conflict between the provisions of this section and any other provisions of the Borough or Township Code, the provisions of this section shall control.

(d) Recreational vehicles and trailers belonging to an occupant of premises may be stored outdoors on such premises in districts R-A through R-H; provided, that they shall be located or screened in such a manner that they cannot be seen from the public right-of-way abutting the lot on which the items are stored or from the adjoining property along or below a sight line of six feet above ground level. Screening may be accomplished by the placement of buildings or fences or by plantings affording a solid, year-round screen.

5. Section 10B-276 of the Township Code amended. Section 10B-276 of the Township prohibiting more than one dwelling per lot is hereby amended to read as follows (new text is underlined thus; deleted text is struck through and in brackets [~~thus~~]):

Sec. 10B-276. More than one dwelling per lot prohibited; exceptions.

No dwelling shall be put on the same lot with the main dwelling; except, that tenant houses, guest houses, separate structures for employees and similar structures susceptible to human occupancy and auxiliary to a single-family house may be put on the same lot as a single-family house; provided, that each structure is properly placed on its separate zoning lot. Farm buildings such as chicken houses and stables and barns, and educational buildings such as classrooms and laboratories which are difficult to convert to dwellings, as well as accessory dwelling units in accordance with the provisions of section 10B-255(c)(3), may be so placed without zoning lots. This section shall not apply to residential clusters.

6. Section 17A-201, “Definitions” of the “Code of the Borough of Princeton, New Jersey, 1974” amended. Section 17A-201 of the “Code of the Borough of Princeton, New Jersey, 1974” (“Borough Code”) is hereby amended by (1) deleting therefrom the definitions of “Building, secondary residence” and “Senior secondary residence”; (2) adding thereto the below new definition entitled “accessory dwelling unit”; and (3) amending the definitions of “Building, accessory,”

“Building, principal” and “Secondary dwelling unit” to read as set forth below (new text is underlined thus; deleted text is struck through and in brackets [~~thus~~):

Accessory dwelling unit. A group of interrelated rooms that: (a) constitutes an entirely self-contained portion of a principal, one-family dwelling, or is located in an accessory building on the same lot as a principal, one-family dwelling; (b) is owned by the owner of the principal, one-family dwelling; (c) contains complete housekeeping facilities for only one family; (d) has no cooking facilities, food preparation facilities, sanitary facilities, or enclosed space in common with any other part of the building in which it is located, except vestibules, entrances, porches, garages, or laundry, heating or air conditioning rooms or equipment; and (e) complies with the provisions of section 10B-255(c)(3) of the “Code of the Township of Princeton, New Jersey 1968.” Wherever the term “secondary residence” is used in this chapter, it shall mean “accessory dwelling unit.”

Building, accessory. A detached building, subordinate to the principal building on the same lot as the principal building. Sleeping facilities and ~~[with no]~~ cooking facilities~~[-except]~~ other than outdoor barbecue pits or picnic fireplaces shall not be permitted unless part of an accessory dwelling unit~~[-or sleeping facilities]~~. The term "accessory building" shall not include ~~[secondary residence buildings;]~~ garden or tool houses with an area of less than thirty-two square feet and without a foundation when located in accordance with section 17A-380 of this article, but it shall include the following:

- (a) Radio and television antennae, except for antennae installed on the roof of a principal building and extending not more than fifteen feet above the highest level thereof.
- (b) Amateur radio receiving and transmitting towers of fifteen feet or less in height.
- (c) Swimming pools and other outdoor sports buildings not operated for gain.
- (d) Pergolas, pavilions, unroofed porches, outdoor bins and other similar buildings.
- (e) Garden houses, tool houses, playhouses and greenhouses.
- (f) Detached garages
- (g) Accessory dwelling units.

Wherever the term “secondary residence building” is used in this chapter, it shall mean an accessory dwelling unit located within an accessory building.

Building, principal. That building which houses the primary use on a lot. In the R1, R2, R3 and R4 zoning districts, only one principal building is permitted on a lot. The following shall be considered part of the principal building:

(a) Any attached accessory building, including an attached garage or attached roofed carport, including those carports attached only by a roofed breezeway.

(b) A roofed porch attached to the principal building.

(c) ~~[A secondary residence]~~ An accessory dwelling unit located within a one-family dwelling.

Fences and walls more than six feet high, even though not attached to a principal building, are subject to the bulk regulations pertaining to principal buildings.

Secondary residence. ~~[A group of interrelated rooms that: (a) constitutes an entirely self-contained portion of a principal, one family dwelling, or is located in a secondary residence building on the same lot as a principal, one family dwelling; (b) is owned by the owner of the principal, one family dwelling; (c) contains complete housekeeping facilities for only one family; (d) has no cooking facilities, food preparation facilities, sanitary facilities, or enclosed space in common with any other part of the building in which it is located, except vestibules, entrances, porches, garages, or laundry, heating or air conditioning rooms or equipment; and (e) complies with the provisions of section 17A-228(e)(7).]~~ See “accessory dwelling unit.”

7. Borough Code standards pertaining to secondary residences repealed and replaced. Subsection 17A-228(c)(7) of the Borough Code pertaining to secondary residences is hereby repealed and replaced with the following (new text is underlined thus; deleted text is struck through and in brackets [~~thus~~]):

(7) Secondary residences. See section 10B-255(c)(3) of the “Code of the Township of Princeton, New Jersey, 1968” regarding accessory dwelling units.

8. Borough Code standards pertaining to senior secondary residences repealed. Subsection 17A-228(c)(8) of the Borough Code pertaining to senior secondary residences is hereby repealed in its entirety.

9. Borough Code standards pertaining to exceptions to lot size requirements for existing small lots revised. The enhanced lot size requirement for secondary residences as set forth in subsection 17A-373(a)(1) of the Borough Code pertaining to existing small lots is hereby repealed, and subsection 17A-373(a)(1) is hereby revised to read as follows (deleted text is in brackets and struck through [thus]):

Sec. 17A-373. Exceptions to lot size requirements--Existing small lots.

(a) Existing small lots exceptions.

(1) If a lot with a total area, lot width or lot depth less than prescribed in this article appears as a separate lot or parcel, was designated as such on the tax map of the former Borough of Princeton on November 19, 1968, and continues as such at all times thereafter, to and including the date of any application for a zoning permit, such a lot may be used for a one-family dwelling, except in the SB districts, and subject further to the provisions of section 17A-403 below (R1 through R4 districts only). However, each substandard lot shall be developed in conformity with all applicable district regulations, other than the minimum lot area, lot width and lot depth, and subject further to the provisions of section 17A-403 applicable to the R1 through R4 districts. ~~In no event shall a secondary residence be permitted on a lot that is less than one hundred twenty five (125%) percent of the minimum lot area that is specific in this article for the zoning district in which the lot is located.~~

10. Referral to Princeton Planning Board. A copy of this ordinance shall be referred to the Princeton Planning Board following its introduction for review pursuant to N.J.S.A. 40A:55D-26a.

11. Repealer. Any article, section, paragraph, subsection, clause, or other provision of the Code of the Township of Princeton and the Code of Borough of Princeton inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

12. Severability. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

13. Effective date. This ordinance shall take effect upon its passage and publication, filing with the Mercer County Planning Board, and as otherwise provided for by law.

14. Applicability. The provisions of this ordinance shall be applicable within the entire Municipality of Princeton upon final adoption and shall become a part of the new Princeton Code once completed and adopted.

Delores Williams, RMC, Clerk

Hon. Liz Lempert, Mayor

Introduced: June 15, 2020

Reviewed by Planning Board: June 18, 2020

Adopted: June 29, 2020

NEWSPAPER PUBLICATIONS:

First Insertion: June 19, 2020

Final Insertion: July 3, 2020

STATEMENT OF PURPOSE: Currently, secondary residences are a permitted accessory use in all of the residential districts of the former Borough, either as part of or attached to the main structure, or as a separate structure, provided either the main residence or the secondary residence is owner-occupied. In addition, any single-family dwelling in the former Township can contain a flat, provided either the flat or the main dwelling is owner-occupied. The purpose of this ordinance is to replace the current Township and Borough Code provisions regarding flats and secondary residences and instead make accessory dwelling units a permitted accessory use in all residential districts in Princeton according to uniform standards for said units, including limitations on size and number of habitable rooms. The ordinance also eliminates any homeowner occupancy requirement.