



ORDINANCE #2177-26

AN ORDINANCE AMENDING CHAPTER 420, "ZONING," OF THE CODE OF THE BOROUGH OF MIDDLESEX TO ADD A NEW ARTICLE XIII TITLED "ACCESSORY RESIDENTIAL SUITES IN DETACHED SINGLE-FAMILY DWELLINGS," ESTABLISHING DESIGN STANDARDS, REGISTRATION, CERTIFICATION, INSPECTION, LIFE-SAFETY COMPLIANCE, AND CONTINUED-OCCUPANCY MONITORING REQUIREMENTS

WHEREAS, the Mayor and Council of the Borough of Middlesex are authorized pursuant to N.J.S.A. 40:48-2 to make, amend, repeal, and enforce such ordinances, regulations, rules and by-laws as may be necessary and proper for the good government, order, and protection of persons and property, and for the preservation of the public health, safety, and welfare of the municipality and its inhabitants; and

WHEREAS, the Borough is further authorized pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., including N.J.S.A. 40:55D-62 and N.J.S.A. 40:55D-65, to adopt and amend zoning regulations governing the nature and extent of the use of land and buildings and to establish design, bulk, location, and related standards applicable to buildings and structures; and

WHEREAS, the State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., including N.J.S.A. 52:27D-123, and Chapter 168 of the Borough Code govern construction, alteration, renovation, rehabilitation, maintenance, use, and occupancy compliance for buildings and structures within the Borough; and

WHEREAS, the Borough Code § 420-7 presently defines a "dwelling unit" as "[a] building or portion thereof providing sleeping room(s), bathroom(s), and kitchen facilities for the use of one household." Section 420-7 further distinguishes single-family dwellings and two-family dwellings.

WHEREAS, § 420-13A and prohibits more than one residential building on a lot, except as otherwise permitted under § 420-6 for multifamily housing developments, and § 420-15G specifically prohibits the use of detached accessory buildings for residential dwelling purposes; and

WHEREAS, detached single-family dwellings are currently permitted principal uses in the Borough's R-100, R-75, R-60A, R-60B, R-50, RC-1, RC-2, R-T, and AR-1 Zones; and

WHEREAS, the Mayor and Council find that the adoption of supplemental design standards, registration, documentation, inspection, and compliance-monitoring requirements applicable to accessory residential suites, also sometimes colloquially referred to as "mother-daughter suites," located within detached single-family dwellings will promote the public health,

safety, and welfare, preserve the detached single-family residential character of the affected zones, prevent the unlawful creation or operation of separate dwelling units where not otherwise permitted, and provide an orderly and objective administrative framework for review and enforcement; and

WHEREAS, the Mayor and Council specifically find and declare that this Ordinance is intended solely to regulate the design standards, registration, certification, inspection, life-safety compliance, and continued-occupancy monitoring of an accessory residential suite located within a detached single-family dwelling, and is not intended to create a new principal use, accessory use, conditional use, or separate dwelling-unit classification; and

WHEREAS, the Mayor and Council further find and declare that nothing in this Ordinance changes any permitted use in any zoning district, adds any new use to any zoning district, removes any existing use from any zoning district, or affects any zoning district boundary in the Borough; and

WHEREAS, the Mayor and Council intend that this Ordinance shall be construed as a supplemental design and administrative enforcement measure applicable only to detached single-family dwellings in the zones identified above, and not as a change to the classification or boundaries of any zoning district;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Middlesex, County of Middlesex, State of New Jersey, as follows:

SECTION 1. CHAPTER 420 AMENDED.

Chapter 420, "Zoning," of the Code of the Borough of Middlesex is hereby amended to add a new Article XIII, entitled "Accessory Residential Suites in Detached Single-Family Dwellings," to read as follows:

ARTICLE XIII Accessory Residential Suites in Detached Single-Family Dwellings

§ 420-69 Intent; purpose; construction.

- A.** The purpose of this Article is to establish supplemental design standards, annual registration requirements, certification procedures, inspection protocols, life-safety compliance requirements, and continued-occupancy monitoring requirements applicable to an Accessory Residential Suite located within a detached single-family dwelling.
- B.** This Article is adopted to protect the public health, safety, and welfare; preserve the detached single-family residential character of the Borough's residential zoning districts in which detached single-family dwellings are presently permitted; ensure that detached single-family dwellings containing accessory residential suites remain internally integrated as single-family dwellings; and provide objective standards for administration and enforcement.
- C.** This Article is not intended and shall not be construed to:

- (1) Create a new principal use, accessory use, conditional use, or dwelling-unit classification;
 - (2) Authorize more than one principal residential building on a lot where such arrangement is otherwise prohibited by this Chapter;
 - (3) Authorize the residential use of any detached accessory building or other structure where such arrangement is otherwise prohibited by this Chapter;
 - (4) Alter any zoning district boundary;
 - (5) Legalize any use, occupancy, structure, or condition that is otherwise unlawful under this Code or under applicable state law.
- D. Registration, certification, inspection, or issuance of any approval under this Article shall not legalize any use not otherwise permitted by Chapter 420.

§ 420-70. Applicability.

- A. This Article shall apply only to a detached single-family dwelling located in the following zoning districts: R-100, R-75, R-60A, R-60B, R-50, RC-1, RC-2, R-T, and AR-1, where an Accessory Residential Suite is proposed, created, maintained, occupied, or continued. To the extent any development proposes a detached single-family dwelling in a zoning district where such use is not permitted, relief from the Joint Land Use Board in accordance with N.J.S.A. 40:55D-70d(1).
- B. This Article shall apply prospectively to:
- (1) Newly constructed detached single-family dwellings; and
 - (2) Existing detached single-family dwellings that are thereafter altered, renovated, rehabilitated, enlarged, reconfigured, or modified so as to create or maintain an Accessory Residential Suite.
- C. This Article shall not apply to:
- (1) Two-family dwellings;
 - (2) Townhouses, garden apartments, multifamily dwellings, or other residential forms not constituting detached single-family dwellings;
 - (3) Any detached accessory building, garage, shed, pool house, cabana, or similar structure, the residential occupancy of which remains prohibited elsewhere in this Chapter.
- D. Existing detached single-family dwellings that contain a physical arrangement that does not conform to one or more design standards set forth in this Article shall have 18 months from the effective date of this Ordinance to apply for a Certification of Pre-Existing Non-Conformity pursuant to § 420-74.

§ 420-71. Definitions.

For purposes of this Article only, the following words and phrases shall have the meanings stated herein:

ACCESSORY RESIDENTIAL SUITE

An attached, subordinate residential living area located wholly within, or as an integral structural part of, the principal building of a detached single-family dwelling, which contains a bedroom or sleeping room, a Full Bathroom, and a Full Kitchen, and which remains physically and functionally connected to the Primary Dwelling Area by Internal Access. A compliant Accessory Residential Suite shall be deemed part of the detached single-family dwelling and shall not, solely by reason of its constituent features, be construed as a separately permitted principal use, separate residential building, or separately permitted dwelling unit.

CERTIFICATION OF COMPLIANCE

A written certification issued by the Zoning Officer pursuant to this Article confirming that a detached single-family dwelling containing an Accessory Residential Suite complies with the design, registration, documentation, and inspection requirements of this Article, together with all other applicable provisions of the Borough Code and state law.

CERTIFICATION OF PRE-EXISTING NON-CONFORMITY

A written determination issued by the Zoning Officer pursuant to this Article recognizing that a specified physical condition, layout, or design feature of a detached single-family dwelling containing an Accessory Residential Suite existed prior to the effective date of this Ordinance and may continue, subject to the limits and conditions stated in the certification. Such certification shall not legalize any use, structure, or occupancy that was unlawful when created or that violates any other applicable law.

FULL BATHROOM

A room containing a toilet, sink, and either a shower or bathtub.

FULL KITCHEN

A kitchen area containing all Kitchen Facilities. For purposes of this Article, a combination of permanently installed or portable cooking appliances, including but not limited to a stove, range, cooktop, oven, wall oven, microwave oven, toaster oven, air fryer, induction burner, hot plate, or similar appliance used in lieu of a conventional stove or oven, together with a sink and refrigerator, shall constitute a Full Kitchen.

HALF BATHROOM

A room containing a toilet and sink, but no shower or bathtub.

INTERNAL ACCESS

Direct interior access between the Primary Dwelling Area and the Accessory Residential Suite that does not require a person to exit the building and go outdoors in order to move between the two areas. Internal Access shall not be obstructed by a keyed lock, deadbolt, electronic access control, or other device or barrier that prevents free interior passage

between the two areas. Ordinary bathroom privacy hardware is excluded from this definition.

KITCHEN FACILITIES

A refrigerator, sink, and a device or combination of devices designed or arranged for cooking or baking food, including a stove, range, cooktop, oven, microwave oven, toaster oven, air fryer, induction burner, hot plate, or similar appliance.

KITCHENETTE

A food-preparation area that falls short of a Full Kitchen because it lacks at least one required Kitchen Facility, including but not limited to:

- (1) A sink and refrigerator with no cooking appliance;
- (2) A cooking appliance and refrigerator with no sink; or
- (3) A cooking appliance and sink with no refrigerator.

PRIMARY DWELLING AREA

The principal and main portion of the detached single-family dwelling exclusive of the Accessory Residential Suite.

BOARD

The Borough of Middlesex Zoning Board of Adjustment, or the Joint Land Use Board if and only if the Borough has lawfully vested that body with the powers of the Board of Adjustment pursuant to applicable law.

§ 420-72. Relationship to existing Code; no detached residential accessory occupancy.

A. This Article shall be read together with the remainder of Chapter 420 and shall supplement, not supersede, the following existing provisions:

- (1) The prohibition against more than one residential building on a lot except as otherwise provided for multifamily housing developments;
- (2) The prohibition against the use of a detached accessory building for residential dwelling purposes;
- (3) The zoning-permit, certificate-of-approval, and enforcement requirements otherwise applicable under this Chapter;
- (4) The change-of-occupancy, sale/re-rent, fire-safety, property-maintenance, and construction-code requirements otherwise applicable under Chapters 158, 168, 212, 240, 317, and all applicable state law.

B. Nothing in this Article shall be construed to authorize:

- (1) A detached residential accessory structure;
- (2) A second principal residential building on a lot;

- (3) A separate street address, separate ownership interest, separate condominium interest, or separate conveyance of an Accessory Residential Suite;
- (4) A separate certificate of occupancy for an Accessory Residential Suite independent of the detached single-family dwelling of which it is a part.

§ 420-73. Design standards for Accessory Residential Suites.

A. Number permitted. No more than one Accessory Residential Suite shall be permitted within any detached single-family dwelling.

B. Location within principal building. An Accessory Residential Suite shall be located wholly within, or as an integral structural part of, the principal building containing the detached single-family dwelling. No portion thereof shall be located in, over, or be accessed solely through a detached garage, shed, pool house, cabana, or any other detached accessory building or structure.

C. Internal access required.

- (1) The Primary Dwelling Area and the Accessory Residential Suite shall be connected by Internal Access at all times.
- (2) Any design, arrangement, construction, or alteration requiring a person to exit the Primary Dwelling Area and go outdoors in order to access the Accessory Residential Suite is prohibited.
- (3) No door or opening between the Primary Dwelling Area and the Accessory Residential Suite shall be equipped with a keyed deadbolt, keyed lockset, electronic lock, access control system, or similar device that prevents free movement between the two areas. Any such device shall constitute a violation of this Article.

D. Exterior doors.

- (1) An exterior door serving the Accessory Residential Suite may be permitted only as a secondary means of access, provided that Internal Access is continuously maintained.
- (2) No exterior configuration shall be designed or used so that the exterior door becomes the sole or mandatory means of access between the two areas.

E. Utility and service integration.

- (1) The Accessory Residential Suite shall not have separate gas, electric, water, or sewer utility service or metering separate from the detached single-family dwelling, except as may be required by law for safety reasons and expressly approved in writing by the Construction Official and Zoning Officer.
- (2) No separate mailbox, unit number, or postal designation shall be assigned to the Accessory Residential Suite.

F. Kitchen limitation.

- (1) There shall be no more than one Full Kitchen within the Primary Dwelling Area and no more than one Kitchenette within the Accessory Residential Suite.
- (2) A Full Kitchen within with the Accessory Residential Suite shall be prohibited.
- (3) No additional Kitchen Facilities shall be installed elsewhere within the dwelling in such number or arrangement as to create another independent food-preparation area resembling a separate dwelling unit.

G. Owner occupancy.

- (1) The owner of record shall occupy the detached single-family dwelling as the owner's principal place of residence and shall certify such occupancy annually as part of the registration required by this Article.
- (2) Failure of owner occupancy shall constitute grounds for suspension or revocation of a Certification of Compliance, unless otherwise expressly authorized by Board approval or other lawful approval.

H. Subordinate status; no separate dwelling unit created.

- (1) The Accessory Residential Suite shall remain subordinate and accessory to the detached single-family dwelling and shall not be occupied, leased, advertised, or held out as a separate residential dwelling unit unless otherwise expressly authorized by law and all necessary approvals are first obtained.
- (2) The installation, layout, or continued use of an Accessory Residential Suite shall not eliminate the single-family character of the dwelling or convert the dwelling into an unapproved two-family or multifamily use.

I. Life-safety and code compliance.

- (1) Every dwelling subject to this Article shall comply with all applicable provisions of the Uniform Construction Code, Uniform Fire Safety Act, Chapter 158, Chapter 168, Chapter 212, and all other applicable state and local codes.
- (2) Nothing herein shall be construed to establish local construction standards inconsistent with the State Uniform Construction Code.

§ 420-74. Registration; Certification of Compliance; documentation; inspections.

A. Initial registration required. Prior to the occupancy or continued use of any Accessory Residential Suite created after the effective date of this Ordinance, the owner shall submit an application for registration to the Zoning Officer and obtain a Certification of Compliance.

B. Annual registration required.

- (1) Every owner of a detached single-family dwelling containing an Accessory Residential Suite shall register the suite with the Borough on an annual basis.
- (2) Annual registration shall be filed with the Zoning Officer on a form promulgated by the Borough Clerk and/or Zoning Officer.
- (3) Registration shall be renewed every 12 months, unless sooner revoked, suspended, or terminated upon a change of title or disqualifying change in occupancy.

C. Registration contents. Each initial and annual registration shall include, at a minimum:

- (1) The name, street address, mailing address, telephone number, and email address of the owner of record;
- (2) An owner-occupancy certification, under oath, that the owner occupies the detached single-family dwelling as the owner's principal residence;
- (3) A current floor plan, to scale or reasonably dimensioned, showing the entire dwelling layout, including all bedrooms, bathrooms, kitchens, kitchenettes, interior doors, exterior doors, hallways, windows, utility rooms, and the Internal Access between the Primary Dwelling Area and the Accessory Residential Suite;
- (4) A written description of all Kitchen Facilities within the dwelling;
- (5) A statement identifying whether any physical condition is being claimed as pre-existing and non-conforming;
- (6) A certification that no detached accessory building is being used or occupied for residential dwelling purposes;
- (7) A certification that the Accessory Residential Suite is not separately metered, separately addressed, separately conveyed, or otherwise maintained as a separate dwelling unit;
- (8) Emergency contact information for a person available to act in the event of an emergency;
- (9) Such additional non-burdensome information as the Zoning Officer may reasonably require to administer this Article.

D. Notice of change in occupancy or configuration.

- (1) The owner shall file an amended registration within **20 days** after any change in:
 - (a) ownership;
 - (b) owner-occupancy status;
 - (c) occupancy of the Primary Dwelling Area or the Accessory Residential Suite;
 - (d) floor-plan layout;

- (e) kitchen facilities;
- (f) Internal Access; or
- (g) utility or service configuration.

(2) Nothing herein shall relieve the owner from compliance with Chapter 158 or any other applicable change-of-occupancy requirement.

E. Inspections.

- (1) Upon receipt of an initial registration, annual registration, amended registration, or application for Certification of Compliance, the Zoning Officer may inspect the premises and may refer the application to the Construction Official, Fire Subcode Official, Fire Marshal, Code Enforcement Officer, Health Officer, or such other officials as may be appropriate.
- (2) The Borough may conduct an initial compliance inspection and such periodic continued-compliance inspections thereafter as are reasonably necessary to enforce this Article, at reasonable times and upon reasonable prior notice.
- (3) Inspections shall occur by consent of the owner or occupant, or otherwise in accordance with lawful administrative or judicial process as permitted by law.
- (4) Refusal to provide access after reasonable notice shall constitute grounds to withhold, suspend, or revoke a Certification of Compliance and registration, and the Borough may pursue such judicial or administrative remedies as may be available at law or in equity.

F. Issuance of Certification of Compliance. The Zoning Officer shall issue a Certification of Compliance where the owner has:

- (1) Submitted a complete application and annual registration;
- (2) Demonstrated compliance with this Article and all other applicable Borough Code provisions;
- (3) Passed all required inspections;
- (4) Paid all required fees; and
- (5) Corrected all violations identified by the Borough.

G. Effect of registration. Registration and issuance of a Certification of Compliance do not legalize any use not otherwise permitted by Chapter 420 and do not waive compliance with any other Borough Code requirement or applicable state law.

H. Revocation. A registration and Certification of Compliance may be suspended or revoked upon written notice by the Zoning Officer if:

- (1) The Internal Access required by this Article is removed, blocked, or locked;
- (2) The configuration becomes a second dwelling unit or otherwise violates Chapter 420;
- (3) Owner occupancy ceases;
- (4) The owner fails to provide required updated information;
- (5) The owner fails to permit inspection in accordance with Subsection E;
- (6) The owner or occupant makes a materially false statement in any application, certification, or registration.

§ 420-75. Existing dwellings; Certification of Pre-Existing Non-Conformity; Design Waivers.

- A. Application deadline.** Any owner of an existing detached single-family dwelling claiming that the dwelling contains a pre-existing physical layout or design feature that does not comply with one or more design standards of this Article shall file an application for a Certification of Pre-Existing Non-Conformity within 18 months of the effective date of this Ordinance.
- B. Contents of application.** An application for a Certification of Pre-Existing Non-Conformity shall include:
 - (1) A floor plan of the existing dwelling;
 - (2) Photographs sufficient to depict the non-conforming condition;
 - (3) An affidavit identifying the date on which the physical condition is alleged to have existed;
 - (4) Copies of any building permits, surveys, tax records, prior listings, appraisals, photographs, contractor records, or other competent evidence supporting the claim of pre-existing status;
 - (5) Such other information as the Zoning Officer may reasonably require.
- C. Zoning Officer determination.** The Zoning Officer may issue a Certification of Pre-Existing Non-Conformity if satisfied that the applicant has demonstrated, by competent evidence, that the identified physical condition existed prior to the effective date of this Ordinance. The certification shall identify with specificity the condition or conditions being recognized.
- D. Limited effect of certification.**
 - (1) A Certification of Pre-Existing Non-Conformity shall exempt only the specifically identified physical condition or conditions from strict compliance with the design standards of this Article.
 - (2) Unless expressly stated otherwise, such certification shall not exempt the property from annual registration, inspections, owner-occupancy certifications, change-notice requirements, or life-safety compliance obligations.

- (3) Such certification shall not legalize any use, structure, or occupancy that was unlawful when created or that violates any other applicable law.

E. Failure to apply. Failure to apply for a Certification of Pre-Existing Non-Conformity within the eighteen-month period shall result in the dwelling being required thereafter to comply with this Article in full unless the owner obtains a Design Waiver pursuant to this section.

F. Design Waivers.

- (1) Where an existing detached single-family dwelling cannot feasibly comply with one or more design standards of this Article, the owner may apply to the Board for a Design Waiver.
- (2) The Board may grant a Design Waiver from one or more design standards of this Article to the extent permitted by law, applying the standards governing bulk-type or comparable design relief under the Municipal Land Use Law, and may impose such reasonable conditions of approval as it deems necessary and appropriate to protect the public health, safety, and welfare and maintain the detached single-family residential character of the affected zone.
- (3) Conditions of approval may include, but shall not be limited to:
 - (a) continued owner occupancy;
 - (b) registration and reinspection requirements;
 - (c) removal or modification of kitchen facilities;
 - (d) changes to doors, accessways, utilities, or floor-plan layout;
 - (e) limits on occupancy or continued use consistent with Chapter 420 and applicable law.

§ 420-76. Administration; withholding of zoning permit; appeals.

- A. The provisions of this Article shall be administered and enforced by the Zoning Officer, in coordination with the Construction Official, Code Enforcement Officer, Fire Subcode Official, Fire Marshal, Health Officer, and such other municipal officials as may be appropriate.
- B. The Zoning Officer is authorized to withhold a zoning permit, Certification of Compliance, or registration approval for any design, application, or floor plan that the Zoning Officer reasonably determines is intended to circumvent the intent and purpose of this Article, including but not limited to a design that:
 - (1) Eliminates or obscures required Internal Access;
 - (2) Creates an outside-only access arrangement between the Primary Dwelling Area and the Accessory Residential Suite;
 - (3) Mimics a separate dwelling-unit configuration inconsistent with this Article;

- (4) Places residential living space in a detached accessory building;
 - (5) Contains materially false or misleading information.
- C. Any person aggrieved by a determination of the Zoning Officer under this Article may appeal to the Board within 20 days after the date of the decision by filing a notice of appeal specifying the grounds therefor.
- D. The Borough Clerk and/or Zoning Officer are authorized to promulgate administrative forms reasonably necessary to implement this Article, including registration forms, update forms, and certification forms. Such forms shall be made available on the Borough website and furnished to any member of the public upon request.
- E. The annual registration fee required by this Article shall be established from time to time by resolution of the Borough Council in an amount reasonably related to, and not exceeding, the Borough's administrative cost of processing the registration, certification, and related inspections.

§ 420-77. Violations; penalties; remedies.

- A. Any person who violates any provision of this Article shall, upon conviction in the Municipal Court, be subject to a fine of not more than \$2,000 for each violation.
- B. Each day that a violation continues after notice thereof shall constitute a separate offense.
- C. In addition to the penalties set forth above, the Borough may:
- (1) Withhold or revoke a zoning permit, registration, or Certification of Compliance;
 - (2) Issue notices of violation and abatement orders;
 - (3) Seek injunctive relief, declaratory relief, or other lawful remedies in a court of competent jurisdiction;
 - (4) Require compliance with this Article as a condition of any future permit, certificate, or Board approval.

SECTION 2. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance, but shall be confined in its operation to the section, subsection, sentence, clause, phrase, or provision directly involved in the controversy in which judgment shall have been rendered.

SECTION 3. REPEALER.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 4. CODIFICATION.

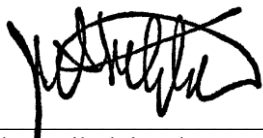
The Borough Clerk and Code publisher are authorized to renumber and codify the provisions of this Ordinance in a manner consistent with the Code of the Borough of Middlesex.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect upon final passage, publication, filing, and all other actions required by law.

ATTEST:

Kelsey Meixner, Municipal Clerk



John Mikolajczyk, Mayor

INTRODUCED:	July 14, 2026
DATE OF PUBLICATION OF INTRODUCTION:	July 21, 2026
ADOPTED:	August 25, 2026
DATE OF PUBLICATION OF ADOPTION:	August 31, 2026