



Ordinance #459 – Condominium Development and Conversion

Explanation of Proposed Action:

The purpose of this proposed change is to establish a review process for development of both residential and non-residential new condominium and condominium conversion projects in all zoning districts in the City where the underlying type of use is permitted. Under the proposal, such development will be subject to site plan review by the planning board, according to specific requirements. Local regulation of new condominium and condominium conversion is permitted by New Hampshire RSA 356-B.

Enactment of this Ordinance will: 1) establish a policy regarding condominium development and conversion; 2) create site plan review standards for condominium development and conversion; 3) provide additional development options in all zoning districts; and 4) provide the opportunity for re-development and rehabilitation of existing structures and the preservation of open space.

CITY OF CLAREMONT - IN THE YEAR TWO THOUSAND AND FIVE

ORDINANCE #459

“Zoning”

The City of Claremont Ordains:

A new Article IX, Condominium Development and Conversion, is added to Chapter 22, Zoning, which shall read as follows.

Section 1 Purpose

The purpose of this article is to provide a flexible policy for quality residential and non-residential condominium development consistent with the character, health, safety, and welfare of the City of Claremont and which will result in a more economical subdivision layout; encourage a variety of residential dwellings; preserve open space to serve recreational, scenic, conservation and other purposes related thereto whenever possible. All condominium development and conversion shall be subject to New Hampshire RSA Chapters 356-A, 356-B and 356-C, as may be applicable.

Section 2 Regulation

Residential Condominiums and Condominium Conversions shall be allowed in any zone in which multiple-family or planned residential developments are permitted. Non-residential Condominiums and Condominium Conversions shall be allowed in any zone in which the particular non-residential use as stated in the condominium documents is permitted and are subject to site plan review, as well as to applicable regulations contained in Article III of this Chapter 22.

Section 3 Definitions

Building Envelope: The area in which a principal structure and any attached accessory structure may be located.

Condominium or Condominiums: Real property, and any interests therein lawfully submitted by the recordation of a condominium instrument pursuant to New Hampshire RSA 356-B. No condominium shall be deemed a condominium unless the undivided interests in the common area(s), including land, accessory roads and buildings, are vested in the unit owners.

Condominium Instruments: A collective term referring to the declaration, bylaws, site plans and floor plans recorded pursuant to the provisions of New Hampshire RSA 356-B. Any exhibit, schedule, or certification accompanying a condominium instrument, and recorded simultaneously therewith shall be deemed an integral part of the affected condominium instrument, so long as such amendment or certification was made in accordance with the provisions of New Hampshire RSA 356-B.

Condominium Unit: That portion of the condominium development or project designed and intended for separate ownership and use, as described in the master deed as a dwelling unit together with the undivided interest in the common area pertaining to that unit.

Common Area(s): Any and all portions of the condominium building, development and/or project other than the dwelling units.

Common Expense: All expenditures lawfully made or incurred by or on behalf of the unit owner's association, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the condominium instruments.

Common Open Space: Common land area with the condominium development which shall not be built upon and shall remain in its natural state.

Communal Septic System and Communal Water Supply System: Non-municipal systems with two or more dwelling unit services, for which the responsibility for maintenance shall be considered common expense.

Conversion Condominium: A condominium containing structures which before the recording of the declaration were wholly or partially occupied by someone other than the

declarant, residential or otherwise, or those who have contracted for the purchase of condominium units and those who occupy with the consent of such purchasers.

Conversion Space: A portion of a structure within the condominium which may be converted into one or more units and/or common space.

Convertible Land: A building site which is a designated portion of the common area within which additional units can be created, according to New Hampshire RSA 356-B and the requirements of this Chapter 22 in effect as of the date a plan for such additional units is filed with the City.

Expandable Condominium: A condominium to which additional land may be added in accordance with the provisions of New Hampshire RSA 356-B.

Master Deed: The condominium document recording the condominium project, as required by RSA 356-B.

Unit Owner's Association: An association established for the maintenance of all common area and for the payment of all expenditures associated with common expenses.

Section 4 Site Plan Review

Submission: Prior to recording of the Master Deed, proposals for a condominium development shall be submitted to the Planning Board for Site Plan review according to its Site Plan Regulations. The Planning Board shall approve, approve with modification, or deny the proposal as provided by the state statute. Any development not part of the approved plan shall constitute a violation of this ordinance. Any land identified as convertible land, for future construction, shall show future development plans. In the case of expandable condominium(s) a separate application for the proposal shall be made upon expansion. The City may require such additional information as it deems necessary at the applicant's expense, in order to evaluate the proposal in relation to the purpose of this Article.

Requirements: In addition to elements required by the City's Site Plan Regulations, all proposals for condominium development or conversion shall also include the following:

1. Site Plans shall show all proposed building, lighting, parking areas, signs and landscaping at a scale sufficient to permit the study of elements of the plan;
2. Utilities, Access and Drainage plans affecting each proposed building and areas for possible future expansion;
3. Elevations and Floor Plans of all proposed buildings;
4. Location of adjacent structures and other outstanding features within two hundred (200) feet of the development's property line.

5. All easements by type and dimension, both existing and proposed. Proposed condominium documents, including but not limited to the Condominium Declaration and Condominium Association By-Laws.
6. All parcels to be dedicated or reserved for public use or as private common areas.
7. Other additional information deemed necessary by the Planning Board.
8. A timetable for completion of the condominium development. The Planning Board may require the necessary performance bond(s) to ensure compliance.
9. Internal streets within the development shall conform to design and construction specifications of the Claremont Subdivision Regulations. Such roads shall provide access to each building. When the development contains four (4) or more buildings, the main road shall be dedicated to the public. Accessory roads and ways within the development shall be private roads and shall be the responsibility of the Condominium Association. Area used for right-of-way shall be deducted from the permitted density.
10. Adequate parking for residents and guests for residential developments and employees and customers for non-residential developments. Notwithstanding the provisions of Section 22-526 to 22-550, adequate parking for condominium conversions of existing structures, whether residential or non-residential may be located off-site without waiver.
11. No building, whether Condominium or Condominium Conversion, shall exceed the permitted height in the district in which the development is located.
12. Condominium construction is subject to all zone dimensional requirements of the district in which it is to be located, except for maximum residential density per square feet of total lot area for multiple unit buildings, where applicable.

Section 5 Density Residential Condominium and Condominium Conversion Units

1. No residential condominium or condominium conversion unit shall be less than five hundred and fifty (550) square feet of gross floor area and each such two (2) bedroom unit shall contain a minimum of eight hundred and fifty (850) square feet of gross floor area.
2. The gross floor area of a residential condominium or condominium conversion unit shall be exclusive of floor area within the building devoted to common areas and means of access and egress.
3. Each dwelling unit shall contain a minimum gross floor area, based on the total area of all habitable rooms, of not less than three hundred (300) square feet for the first occupant, two hundred (200) square feet for the second occupant and one hundred fifty (150) square feet for each additional occupant. Habitable rooms shall be defined as those areas of a residential unit, including bathrooms and kitchen facilities, which are not used for closets, storage or utility purposes and which are not part of the common areas.

Section 6 Condominium Conversions

- 1.** In any district in reaching its determination regarding conversion of an existing structure to condominium ownership, the Planning Board, will consider the following criteria in addition to elements required by site plan review. The Planning Board may impose such conditions on an individual development proposal as may be necessary in order to meet these as well as site plan requirements.
 - a)** No apartment building may be converted to a condominium development unless all requirements for initial condominium development as set forth in this article are met by the conversion condominium, including Site Plan Review.
 - b)** Structures which are subject to the request for condominium conversion must, at the time of the request for condominium conversion, exist as legal structures. The burden shall be on the applicant to demonstrate that the units sought to be converted have legal status.
 - c)** The appropriateness of the use given the location and nature of the proposal.
 - d)** The provision or availability of adequate parking, either on or off-site.
 - e)** Other public benefits.
- 2.** Any increase to the footprint of an existing building must meet all applicable zone dimensional requirements.
- 3.** Pursuant to RSA 356-B:5, Condominium Conversion projects which do not conform to the City's zoning, land use and site plan regulations shall secure a special exception or variance, as the case may be prior to approval of a site plan.

Section 7 Existing Special Use Residential Permits:

- 1.** B-1 District: Condominium and condominium conversions in the B-1 District are subject to Section 22-266.5 Special Use Permit
- 2.** Mill District: Condominium and condominium conversions in the Mill District are subject to Section 22-358-5, except as indicated herein.
- 3.** Section 22-358-5(a) is repealed and replaced as follows:

A special use permit for residential use may be granted to a non-accessory residential unit if such unit meets all applicable requirements, whether for condominium or other residential use, and contains no more than two (2) bedrooms, except that a maximum of ten percent (10%) of the residential units in any single structure may contain up to three (3) bedrooms.

Section 8 Validity

If any article, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this ordinance.

Section 9 Effective Date

This Ordinance shall take effect and be enforced immediately upon passage.

Introduced and passed on first reading _____, 2005

Adopted by the Claremont City Council on _____, 2005

James C. Neilsen, IV

Andy A. Austin

Roger Formidoni

Bruce Temple

Christopher Irish

Heather Giannuzzi

Michael L. Prozzo, Jr.

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Mayor Scott Pope

Adopted by the City Council on _____, 2005

Attest: _____
Clerk to the Council