

CITY OF CLAREMONT
IN THE YEAR TWO THOUSAND AND SEVENTEEN
ORDINANCE #554

“ZONING-ACCESSORY DWELLING UNITS”

The City of Claremont Ordains:

Pursuant to RSA 47:17 and RSA 674:16 Chapter 22, Zoning, of the Claremont City Code is hereby amended as follows.

Section 1 Amend Chapter 22, Zoning

Section 22-1 Definitions is amended by revising or adding certain definitions, to read as follows:

Accessory building or structure shall mean a detached building or structure which does not contain an accessory dwelling unit and which is located on the same lot as the use to which it is incidental and subordinate to that of the main building, structure or use of the land.

Accessory Dwelling Unit (ADU) shall mean a residential living unit that is within or attached to an owner-occupied single-family dwelling unit, that is not “manufactured housing” as defined by RSA 205-A or a mobile home, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

Accessory use shall mean a land use other than an accessory dwelling unit located on the same lot that is incidental, subordinate and bears a reasonable relationship to the primary use.

Conditional Use shall mean a use that is permitted only upon the approval of the Planning Board and resulting issuance of Conditional Use Permit meeting the requirements as set forth in Sections 22-100 and 22-101.

Duplex shall mean a single residential structure containing two (2) dwelling units or two (2) dwelling units which are separated by a common wall, neither of which dwelling unit is accessory, incidental, or subordinate to the other, and which dwelling units may be separately owned. A duplex by definition is not an accessory dwelling unit.

Dwelling unit, single-family, shall mean a residential building which provides complete housekeeping facilities for one (1) family which contains a minimum of five hundred fifty (550) square feet of area, and which may also contain an accessory dwelling unit.

Sec. 22-3. Prior plans or construction is amended to read as follows:

Nothing in this chapter shall require any change in the plans, construction or designated use of a building or structure for which the construction shall have been commenced or a valid building permit issued prior to March 29, 2017, or any amendment hereto, and which shall be completed within one (1) year of the adoption of same.

Article II, Division 6 is amended to re-title the Division as follows:

DIVISION 6. - CONDITIONAL USE PERMITS

Sec. 22-100. - General is amended by deleting the word "special" and replacing it with the word "conditional" so that the section will read as follows:

- (a) Uses designated as conditional uses in any zoning district may be permitted only by approval by the planning board and only upon the granting of a conditional use permit by the planning board. Submittal criteria and process shall be that of the planning board.
- (b) The inability to meet any zoning district standard for a conditional use permit will require a variance from the zoning board of adjustment for that standard prior to the issuance of a conditional use permit.

Sec. 22-101. - Standards of review is amended to substitute "conditional" for "special" in the first line and add a new subsection (10) to read as follows:

In reviewing an application for a conditional use permit, the planning board shall consider the following granting criteria:

- (10) For proposed accessory dwelling units, the planning board:
 - a. May request or require of an applicant a building and site drawing of sufficient detail to enable the planning board to ascertain whether the proposed accessory dwelling unit would be compatible with the character of the neighborhood, and;
 - b. Shall find that all requirements set forth in Section 22-513 and as stipulated for the relevant zoning district(s) shall be met.

Sec. 22-147. - Special exceptions is amended to delete subsection (13).

Sec. 22-167. - Special exceptions is amended to delete subsection (16).

Sec. 22-187. - Special exceptions is amended to delete subsection (9).

Sec. 22-207. - Special exceptions is amended to delete subsection (8).

Sec. 22-336. - Permitted uses is amended to delete subsection (5).

Sec. 22-386. - Interpretation of table of uses is amended to substitute "conditional" for "special" in the second paragraph and add a cross-reference to read as follows:

The following table of uses has been developed to indicate those uses which are permitted, permitted by conditional use permit, and permitted by special exception.

- (1) *Permitted uses.* Permitted uses are denoted by the letter "P" in the table of uses.
- (2) *Special exception.* Uses that are permitted only upon approval by the zoning board of adjustment, subject to the regulations contained in division 3 of article II of this chapter, are denoted by letters "SE" in the table of uses.

- (3) *Conditional uses.* Uses that are permitted according to Division 6 of Article II only upon approval by the planning board and issuance of a conditional use permit are denoted by letters "CU" in the table of uses.
- (4) Any uses not expressly permitted or allowed by special exception or conditional use permit in the table of uses are prohibited.

Sec. 22-387. - Table of uses is amended to substitute "CU" for "SU" wherever it may appear and change the Regulation Reference for Accessory Dwelling units to Sec. 22-513, so that the *applicable* provisions of the Table reads as follows:

	City Center Residential I District	City Center Residential II District	Professional Residential District	Mixed Use District	City Center Business II District	Additional Regulations Reference (refer to these sections for additional regulations)
Residential	CR-1	CR-2	PR	MU	CB-2	
Single-family dwelling	P	P	P	CU	P	Sec. 22-387.1
Accessory dwelling units	CU	CU	CU	CU	CU	Sec. 22-513
Duplex		P	P	CU	P	Sec. 22-387.1
Multifamily dwelling		P	P	CU	P	Sec. 22-387.1
Conversion of existing single-family to duplex	CU	CU	CU	CU	CU	Sec. 22-387.2
Conversion of existing single-family or duplex to multifamily dwelling	CU	CU	CU	CU	CU	Sec. 22-387.2
Bed and breakfast		P	P	CU		Sec. 22-387.7
Restaurants and taverns			CU	P	P	Sec. 22-387.13
Residential use at street level			P	CU		Sec. 22-387.1
Institutional and Educational	CR-1	CR-2	PR	MU	CB-2	
Light manufacturing and assembly				CU	CU	Sec. 22-387.17
Warehousing and distributing, and repair shops				CU	CU	Sec. 22-387.17

Sec. 22.387.1. - Residential units in mixed-use district is amended to substitute "conditional use" for "special use" so that the *applicable* provisions read as follows:

In order to encourage rehabilitation of under-developed, vacant and abandoned buildings, preservation of historic properties and development of code compliant and enhanced housing

stock, there is established a conditional use permit for single-family dwellings, duplexes, multifamily dwellings, and mixed use buildings with residential units at the street level in the mixed use district, subject to the following:

(2) Minimum development standards for individual units in order to be considered for approval of a conditional use permit under this section are:

c. *Gross floor area.* The gross floor area of a unit shall be exclusive of floor area within the building devoted to common hallways, stairways and other common facilities and spaces. The gross floor area of the building, including means of access and egress except for elevators and emergency staircases, shall not be increased as part of the development plan for a conditional use permit. Any increase to the footprint of an existing building in this zone must meet all applicable zone dimensional requirements.

(4) A conditional use permit for residential uses may be granted for street level dwelling units in the MU district except for properties fronting the following: Opera House Square, Tremont Street from Broad Street to Opera House Square, Pleasant Street from Opera House Square to Glidden Street, Sullivan Street from Opera House Square to Franklin Street, Main Street from Opera House Square to Franklin Street.

Sec. 22-387.2. - Residential conversions is amended to substitute "conditional use" for "special use" so that the introductory paragraph reads as follows:

Conversions of existing single-family homes to duplexes and conversions of existing single-family homes or duplexes to multifamily dwellings in the city center residential I, city center residential II, professional residential, mixed use and city center business II districts are allowed by conditional use permit, subject to the following:

Sec. 22-387.3. - Accessory dwelling units is deleted in its entirety and designated as "Reserved."

Sec. 22-387.7. - Bed and breakfasts in the mixed-use district is amended to substitute "conditional use" for "special use" so that the introductory sentence reads as follows:

The purpose of this provision is to allow existing buildings in the mixed-use district to convert to bed and breakfasts by conditional use permit, subject to the following:

Sec. 22-387.13. - Restaurants and taverns is amended to substitute "conditional use" for "special use" to read as follows:

Restaurants and taverns are allowed in the professional residential district by conditional use permit, subject to the standards of review provided in sections 22-100 and 22-101.

Sec. 22-387.17. - Industrial uses in mixed use and city center business II districts is amended to substitute "conditional use" for "special use" to read as follows:

In order to allow industrial uses in the city center without detracting from the area's character or image, there is established a conditional use permit for light manufacturing and assembly, warehousing and distributing, and repair shops in the mixed use district and city center business II district, subject to the standards of review provided in sections 22-100 and 22-101.

Sec. 22-389.2. – City center residential districts is amended to substitute "conditional use" for "special use" near the end of the section to read as follows:

...and subject to requirements of a conditional use permit, if required;...

Sec. 22-389.4. – Setbacks in the professional residential district is amended to substitute "conditional use" for "special use" near the end of the section to read as follows:

...and subject to requirements of a conditional use permit, if required;...

Sec. 22-513. – Reserved is amended the insert a new title, **Accessory Dwelling Units**, and add the following new provisions:

An accessory dwelling unit (ADU):

(a) Is allowed only by Conditional Use Permit, according to Sections 22-100 and 22-101, in any zoning district that allows single-family dwelling units:

(1) The approved Conditional Use Permit and its conditions of approval shall be recorded in the Registry of Deeds;

(2) Only one (1) ADU shall be permitted per single-family dwelling unit.

(b) Shall be allowed only on properties containing an owner-occupied single-family dwelling:

(1) Owner must demonstrate on an annual basis that one of the units is the owner's principal place of residence;

(2) The owner of a property containing an accessory dwelling may reside in either the principal or the accessory dwelling unit.

(c) Shall be subsidiary in size and function to the principal dwelling unit and be consistent with the principal residential structure in appearance, height, design, colors, and materials and maintain aesthetic continuity with the principal dwelling unit as a single-family dwelling:

(1) The ADU shall not occupy more than 40% of the gross living area of the existing residential structure. While an ADU's floor area may be less than 750 square feet, it is not required to be;

(2) The ADU shall include not more than 2 bedrooms;

(3) The ADU may be located within or added to the principal structure;

(4) A functional interior doorway shall be provided between the ADU and the principal dwelling unit, which may be locked;

(5) The ADU may use an existing exterior door as an entry, except new ADU entry doors shall not face the street;

(6) The ADU, including any new construction or physical addition to create an ADU, shall comply with all existing dimensional requirements of this Chapter but shall not extend beyond the front wall of the dwelling structure;

(7) For the residents of the ADU there shall be at least one extra on-site parking space located only in the rear or side yard, and there shall be no additional curb cut.

(d) Shall be served by well and septic provisions which comply with New Hampshire Department of Environmental Services regulations, if the ADU is not served by public water and sewer.

- (e) Shall not be considered to be an additional dwelling unit for the purposes of determining minimum lot size or development density of the property.
- (f) Shall not be allowed in duplex or multi-family dwellings.
- (g) Shall not be attached to mobile homes or manufactured housing units.
- (h) Is not allowed in condominium developments.
- (i) Shall always be under the same ownership as the principal dwelling unit and shall not be converted into condominium or any other form of legal ownership distinct from the ownership of the principal dwelling unit.

Sec. 22-572. – Restricted is amended to read as follows:

Only residential uses shall be permitted in a planned residential development. This shall include single-family dwellings, with or without accessory dwelling units, and multi-family dwellings.

Sec. 22-687. – Existing special use residential permits is amended to change the title of the section to "**Existing conditional use residential permits.**"

Section 2. 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 6. Effective Date

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

Introduced and passed on first reading _____, 2017.

Adopted by the Claremont City Council on _____, 2017.

Carolyn Towle

Nicholas Koloski

Victor Bergeron

Bruce Temple

John Simonds

Alan Damren

Scott Pope

Keith Raymond

Mayor Charlene Lovett

Attest: _____
Clerk to the Council