

**Town of Montreat
Planning and Zoning Commission
Meeting Agenda
January 16, 2020 – 10:30 a.m.
Walkup Building**

I. Call to Order

- Welcome
- Moment of Silence/Invocation

II. Agenda Adoption

III. Minute Adoption

- A. January 2, 2019 Meeting Minutes

IV. Old Business

- A. Review: Conditional Zoning Ordinance (as revised)
B. Discussion: Accessory Dwelling Units: See attached materials

V. New Business

- A. Where are we?
1. Review: Current Status of Zoning Ordinance Changes
 2. Remaining Work
 - a. Planned Unit Development – Mason Blake
 - b. Remainder of Zoning Ordinance
 - c. Steep Slope and Stormwater
 - d. Other

- B. Discussion: Next Meeting Dates

VI. Public Comment

IX. Adjournment

-----.12 Conditional Zoning District

In addition to the general zoning districts delineated above, a Conditional Zoning District (bearing the designation CZ) corresponding to the general use zoning districts may be established as authorized in this ordinance, ~~Accordingly, the following conditional zoning districts may be designated upon approval by the Town Board of Commissioners of a petition to establish a conditional zoning district, as follows:~~

R-1: (CZ)	Low Density Residential District
R-2: (CZ)	Medium Density Residential District
R-3: (CZ)	Low Density Residential District
I/R: (CZ)	Institutional/Residential District
I: (CZ)	Institutional District

Conditional zoning districts are districts that correspond to the general use zoning districts which are otherwise applicable. In addition to imposing the standards, restrictions and regulations provided for in the corresponding general use zoning district applicable to a parcel of property, a conditional zoning district imposes additional standards, restrictions and regulations as a condition to and as part of the legislative decision creating the district in exchange for reductions in ~~the~~ otherwise applicable setback and other site specific development standards and requirements of the applicable general use district.

~~Conditional Zoning Districts (bearing the designation CZ) correspond to the general use zoning districts as authorized in this ordinance.~~

-----.13 Purpose

Conditional Zoning Districts are primarily intended to allow for the zoning and development of property in accordance with general use zoning district standards ~~and~~ with additional ~~conditions~~ standards that enable the use and development of the subject property in a manner which is better suited to the topography and other unique characteristics of the site and which is also consistent with the character of the use and development of the neighboring properties.

The review process established in this Ordinance provides for accommodation of such development by a reclassification of property into a conditional zoning district, subject to specific conditions ~~and~~ standards, which promote and provide for the compatibility of the use and development of the subject parcel with the use and development of the

neighboring properties. Zoning petitions to establish a conditional zoning district will be processed in accordance with the provisions of **this zoning ordinance** for zoning amendments as well as this section. *A conditional zoning district classification will be considered only if the application is made by the owner of the property or his/her authorized agent.*

-----.14 Uses within District

Within a conditional zoning district, only those uses listed as permitted uses in the corresponding general zoning district shall be permitted. Individual conditions and site specific standards are limited to those needed to bring a project into compliance with town ordinances and adopted plans. The applicant shall propose development standards to mitigate the impacts reasonably expected to be generated, especially with regard to property adjacent to the conditional zoning district. Special uses shall require a special use permit as required for the applicable general use zoning district.

-----.15 Conditions

(A) In a conditional zoning district, conditions may specify the uses proposed for the district; the location on the property of the proposed use; the number of dwelling units **or other structures**; the location and extent of supporting facilities such as parking areas, driveways, and access streets; design elements of the proposed use; the location and extent of buffer areas and other special purpose areas; the timing of development; the location and extent of right-of-way and other areas to be dedicated for public purposes; the alteration of streets to mitigate traffic and environmental impacts; use limitations; and other matters the applicant proposes **as conditions upon the request or agrees to or which the Town requests.**

(B) In approving a reclassification of property to a conditional zoning district, the Town Board of Commissioners may request that reasonable and appropriate conditions be attached to approval of the rezoning. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater, the provision of open space, and other matters that the Town Board of Commissioners may find appropriate or the applicant may propose.

(C) Such conditions to approval of the rezoning may include dedication to the Town or State or a recognized legal entity, as appropriate, of any rights-of-way or easements for roads, water, and sewer or other public utilities necessary to serve the proposed development. The applicant shall have a reasonable

opportunity to consider and respond to any such conditions prior to final action by the Town Board of Commissioners.

(D) Before filing an application for a conditional zoning district, the application(s) is encouraged to meet with the Zoning Administrator to discuss the nature of the proposed reclassification, the standards for development under the existing and proposed classifications, and concerns that persons residing in the vicinity of the property may have regarding the proposed reclassification, if known.

(E) All applications must include an exhibit map/schematic plan and supporting text which will become a part of the ordinance amendment, ~~The applicant should include at least~~ and the items listed below:

- (1) A site plan drawn to scale locating all proposed improvements, showing the total acreage, present zoning classifications and uses for the subject property and adjacent properties, date, and north arrow.
- (2) The owners' names, addresses, and the tax parcel numbers of all adjoining properties.
- (3) All existing easements, reservations, ~~and~~ rights-of way, and all yards required for the conditional zoning district requested.
- (4) Delineation of areas within the regulatory floodplain as shown on official Flood Hazard Boundary Maps for the Town of Montreat including delineation of streams and associated stream buffers.
- (5) Proposed uses of land and structures. For residential uses this ~~should~~ includes the number of units and an outline of area where the structure will be located and appropriate setbacks. For nonresidential uses, this ~~should~~ includes the approximate square footage of all structures and an outline of the area where the structures will be located.

(F) Additional requirements. ~~When dealing with the conditional zoning district process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore,~~ The Planning and Zoning Commission and/or Town Board of Commissioners may request additional information as they deem necessary. This information may include ~~but is not limited to the items listed below among other things:~~

- (1) Proposed screening, including walls, fences, or planting areas as well as treatment of any existing natural features.

(2) Existing and proposed topography at ~~fivetwo~~-foot contour intervals or less.

(3) Generalized information on the number, height, and size or, in especially critical situations, the location of structures.

(4) Proposed number and location of detached signs

(5) Approximate completion time of the project and proposed phasing, if any.

(6) ~~A+~~Transportation plan with provisions for internal vehicular, transit, bicycle, and pedestrian circulation and parking.

(7) Conditions proposed to be incorporated in the conditional zoning district.

(G) In approving a conditional zoning district, the Town Board of Commissioners may, ~~with agreement of the applicant~~, impose more restrictive requirements than would otherwise be required by this ordinance and those in the application, as deemed necessary to ensure that the purposes and intent of this ordinance are met.

~~(H) No condition on a conditional zoning district application may have the effect of removing or amending any requirement of this ordinance.~~

(I) Other than use conditions, no proposed condition can be a mere repetition of an already applicable requirement of this ordinance. The ~~Planning Director~~ **Zoning Administrator** may order the removal of any such condition.

~~(J) Prior to the issuance of any permits, the applicant must submit detailed plans to the Zoning Administrator for final review and approval.~~

-----16 Community Meeting

With respect ~~Applicable~~ to the **Institutional/ Residential (I/R)** and the **Institutional (I)** districts, the applicant is required to hold a community meeting prior to the application deadline for a conditional zoning district rezoning. ~~The applicant shall provide proof of mailed notice of the meeting.~~ Notice of the meeting shall be provided to owners of ~~abutting~~ property ~~within 250' of subject property~~, as listed with the Buncombe County Tax Department. ~~, and include properties directly across a street, easement or public or private right of way, and within 300250 feet of the property.~~ Notice may be sent to additional properties by the applicant. At a minimum, the notice shall be sent by

standard mail and be postmarked at least fourteen (14) days prior to the date of the community meeting. Additional types of public notice may be provided by the applicant.

(A) A written report of the community meeting shall be included as part of the application packet. The written report of the meeting shall include a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the time, date, and location of the meeting, and a description of any changes to the rezoning application made by the applicant as a result of the meeting.

(B) Revisions to an approved Conditional Zoning District necessitating a Public Hearing applicable to the Institutional/ Residential (I/R) and the Institutional (I) districts shall also require a community meeting.

-----.17 Scope of Approval

(A) Any conditions approved in association with a Conditional Zoning District and so authorized shall be perpetually binding unless subsequently changed or amended as provided for in this Article. The applicant shall obtain certification of the approval of the Conditional Zoning District from the Town Clerk and shall record the certification and accompanying map exhibit/site plan in the office of the Register of Deeds of Buncombe County. The applicant shall return a certified copy of the recorded documents to the Town Clerk.

(B) If for any reason any condition established pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any condition, the approval of the Conditional Zoning District may be deemed null and void and the governing body may initiate proceedings to rezone the property to its previous zoning classification. Continued or repeated violations of the conditions in an approved Conditional Zoning District shall constitute an applicant's failure to accept said conditions.

(C) Any violations of a condition in an approved Conditional Zoning District shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation.

(D) The approval of a zoning map or text amendment does not authorize any development activity. Application for a Certificate of Zoning Compliance and any other administrative permits required by this ordinance shall be required.

(E) If an application for conditional zoning is approved, the development of the property shall be governed by the standards, restrictions and regulations provided for in the corresponding general use zoning district, with such changes

to the setback and other imposed conditions that the Town Board of Commissioners may find appropriate. The approved site plan for the conditional zoning district, and any additional regulations and requirements imposed as a condition in connection with the approval of the conditional zoning district, shall constitute the zoning regulations for the approved conditional zoning district and shall be binding upon the subject property as an amendment to these regulations and the zoning maps.

(F) If an application is approved, only those uses and structure indicated in the approved application and exhibit map/schematic plan shall be allowed on the subject property. A change of location of any structures may be authorized pursuant to applicable provisions of the ordinance.

(G) Following the approval of a rezoning application for a conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation.

(H) Any ~~Approval~~ approved conditional zoning district shall have vested rights.

-----17 Alterations to Approval

(A) Except as provided herein, changes to an approved conditional zoning district or to the conditions attached to the approval shall be treated the same as a new application for a conditional zoning district and shall be processed in accordance with the original procedures.

(B) The Planning and Zoning Commission shall have the authority to approve an administrative change to an approved conditional zoning district application. The standard for approving or denying such a requested change shall be that the change does not significantly alter the approved plan or its conditions and that the change does not have a significant impact upon abutting properties. Changes that increase the ~~intensity~~ density of nonresidential development up to 10% of the approved building square footage, but not more than 5,000 square feet, may be considered. For residential development, increases in density are not allowed as an administrative change.

(C) The Planning and Zoning Commission shall always have the discretion to decline to exercise this delegated authority if it believes a requested change should be deemed a rezoning application ~~with~~ requiring a public hearing and Town Board of Commissioners approval under the circumstances. If the Planning and Zoning Commission declines to exercise this authority, then the applicant ~~can~~ may only file a rezoning application in accordance with these provisions. ~~with a public hearing and Town Board of Commissioners decision.~~

Accessory Dwelling Units



[Brett VA](#) (CC BY 2.0)

An accessory dwelling unit (ADU) is a smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e., detached) single-family home. ADUs go by many different names throughout the U.S., including accessory apartments, secondary suites, and granny flats. ADUs can be converted portions of existing homes (i.e., internal ADUs), additions to new or existing homes (i.e., attached ADUs), or new stand-alone accessory structures or converted portions of existing stand-alone accessory structures (i.e., detached ADUs).

Internal, attached, and detached ADUs all have the potential to increase housing affordability (both for homeowners and tenants), create a wider range of housing options within the community, enable seniors to stay near family as they age, and facilitate better use of the existing housing fabric in established neighborhoods. Consequently, many cities and counties have signaled support for ADUs in their plans and adopted zoning regulations that permit ADUs in low-density residential areas.

From this page you can search for resources that provide background, policy guidance, and examples of local plan recommendations and zoning standards for ADUs from across the country. And you can filter these search results by various geographic and demographic characteristics.

Planning for Accessory Dwelling Units

While many communities are interested in expanding housing choices by allowing ADUs in single-family areas, some residents of these areas may be concerned about ADUs changing the character of their neighborhoods or overburdening existing infrastructure. The [research](#) to date does not support fears about lower property values or parking shortages. Conversely, there are some indications that ADUs do increase the supply of affordable housing and do make significant economic contributions to their host communities, through construction activity and property taxes.

Conducting a housing needs assessment before drafting zoning regulations for ADUs can highlight demographic and spatial mismatches between the existing housing supply and the current and projected housing demand. Consequently, it may provide an indication of the total number of ADUs likely to be created in a given time period under a permissible regulatory scheme. Meanwhile, a residential design study can help proactively identify challenges associated with integrating ADUs into established single-family neighborhoods.

When cities and counties address ADUs in their comprehensive plans, they often include policy recommendations related to updating zoning regulations or providing public information about existing regulations. Some communities also explicitly identify land-use categories or place types where ADUs are appropriate.

Zoning for Accessory Dwelling Units

Many cities and counties permit ADUs in one or more single-family zoning districts by right, subject to use-specific standards. Common provisions include an owner-occupancy requirement (for one of the two dwellings), dimensional and design standards to ensure neighborhood compatibility, and off-street parking requirements. Other relatively common provisions include minimum lot sizes and limits on the number of occupants or bedrooms. While some codes also include occupancy restrictions that stipulate that ADUs can only house family members or domestic employees, this type of restriction can severely limit the potential for ADUs to address a shortage of rental housing.

In some states, such as [California](#) and [Vermont](#), localities must permit ADUs by right, under certain conditions. In some others, state laws pre-empt some aspects of local zoning for ADUs or actively encourage cities and counties to adopt permissive zoning regulations for ADUs.

Many older communities have an existing supply of illegally created ADUs. Some of these communities offer, or have offered, some form of limited amnesty to owners of illegal ADUs. These amnesty programs may waive permitting and inspection fees in exchange for owners registering their units, and they typically expire within a year or two of adoption.

BACKGROUND RESOURCES

[A Room of One's Own: Accessory Dwelling Unit Reforms and Local Parochialism](#)

This article discusses the national trend in state and local regulations toward more permissive regulations for accessory dwelling units (ADUs) and presents the findings of a study of local regulations in California.

[Accessory Apartments for Today's Communities](#)

This short article highlights the potential of accessory dwelling units (ADUs) as an affordable housing strategy and briefly discusses common barriers to developing ADUs.

[Accessory Dwelling Units: A Smart Growth Tool for Providing Affordable Housing](#)

This article provides a general overview of accessory dwelling units (ADUs), discusses potential regulatory barriers to ADUs and state efforts to promote ADUs in Florida, and includes considerations for local zoning ordinances.

Accessory Dwelling Units: Case Study

This short report documents how six different localities regulate accessory dwelling units (ADUs) and discusses the potential benefits of removing regulatory barriers to ADUs.

Accessory Dwellings

This website contains numerous pages with information about accessory dwelling units (ADUs) as a concept, ADU design and construction, state and local policy for ADUs, and research about ADUs.

Accessory Housing Is Part of the Solution

This short article summarizes a number of common regulatory barriers to affordable housing. These barriers include process requirements, design standards, occupancy standards, and lot size and parking standards.

Responding to Changing Households: Regulatory Challenges for Micro-Units and Accessory Dwelling Units

This report summarizes the research to date about the potential benefits of accessory dwelling units (ADUs) and micro-apartments, analyzes the regulatory barriers to developing these dwellings, and identifies questions for future research.

REPORTS

Accessory Dwelling Unit Survey for Portland, Eugene, and Ashland, Oregon

This report presents findings from a survey of accessory dwelling unit (ADU) property owners in three Oregon cities.

Accessory Dwelling Units in Portland, Oregon: Evaluation and Interpretation of a Survey of ADU Owners

This report analyzes findings from a survey of accessory dwelling unit (ADU) property owners in Portland, Oregon.

Accessory Dwelling Units: Case Study

This short report documents how six different localities regulate accessory dwelling units (ADUs) and discusses the potential benefits of removing regulatory barriers to ADUs.

Home Remedies: Accessory Apartments on Long Island

This report analyzes local regulations for accessory dwelling units (ADUs) on New York's Long Island.

Jumpstarting the Market for Accessory Dwelling Units: Lessons Learned from Portland, Seattle, and Vancouver

This report presents the results of a survey of accessory dwelling unit property owners in Portland, Oregon; Seattle; and Vancouver, British Columbia.

Promoting Workforce Housing: Expanding Locations and Development Potential

This report includes a model ordinance template to help cities in Montgomery County, Pennsylvania, draft regulations that encourage the development of accessory dwelling units.

[View all reports](#)

ARTICLES

A Room of One's Own: Accessory Dwelling Unit Reforms and Local Parochialism

This article discusses the national trend in state and local regulations toward more permissive regulations for accessory dwelling units (ADUs) and presents the findings of a study of local regulations in California.

Accessory Apartments for Today's Communities

This short article highlights the potential of accessory dwelling units (ADUs) as an affordable housing strategy and briefly discusses common barriers to developing ADUs.

Accessory Dwelling Units as Low-Income Housing: California's Faustian Bargain

This article evaluates the efficacy of a California statute that permits cities and counties to count accessory dwelling units (ADUs) toward affordable housing production goals.

Accessory Dwelling Units: A Smart Growth Tool for Providing Affordable Housing

This article provides a general overview of accessory dwelling units (ADUs), discusses potential regulatory barriers to ADUs and state efforts to promote ADUs in Florida, and includes considerations for local zoning ordinances.

Accessory Housing Is Part of the Solution

This short article summarizes a number of common regulatory barriers to affordable housing. These barriers include process requirements, design standards, occupancy standards, and lot size and parking standards.

Understanding and Appraising Properties with Accessory Dwelling Units

This article describes challenges associated with appraising properties with accessory dwelling units (ADUs) and proposes an appraisal method based on income capitalization.

[View all articles](#)

STATUTES

California Planning and Zoning Law

These statutes belong to the Accessory Dwelling Units, Capital Improvements Programming, Environmentally Sensitive Areas, and Scenic View Protection collections.

Florida Accessory Dwelling Units Statute

Florida state law authorizes all localities with a shortage of affordable rental housing to adopt an ordinance that permits accessory dwelling units (ADUs) in all areas zoned for single-family residential use.

Hawaii County Zoning Statute

Hawaii state law authorizes all counties to adopt zoning standards that permit two single-family dwellings on any lot where a residential dwelling unit is permitted.

New Hampshire Planning and Zoning Statutes

These statutes belong to the Accessory Dwelling Units, Capital Improvements Programming, and Transfer of Development Rights collections.

Oregon Comprehensive Land Use Planning Statutes

Oregon requires most localities to permit one interior, attached, or detached accessory dwelling unit (ADU) by right for reach existing or newly constructed single-family detached dwelling.

Rhode Island Zoning Enabling Act

Rhode Island state law authorizes cities and towns to protect scenic views, establishes a transfer of development rights program, and specifies conditions for localities to permit accessory dwelling units.

[View all statutes](#)

GUIDES

Accessory Dwelling Unit Homeowners' Handbook: A Guide for Homeowners on Oahu Interested in Building an Accessory Dwelling Unit

This local guide explains property owner options for developing accessory dwelling units in Oahu County, Hawaii.

Accessory Dwelling Unit Manual

This local guide explains property owner options for developing accessory dwelling units in Santa Cruz, California.

Accessory Dwelling Unit Memorandum

This guide is designed to help cities and counties in California update local zoning regulations for accessory dwelling units (ADUs) to comply with state statutes.

[Accessory Dwelling Units Program Guide](#)

This local guide explains the application and review process for developing accessory dwelling units in Portland, Oregon.

[Accessory Dwelling Units: A Guide to Accessory Apartments in Charlottesville, VA](#)

This local guide explains property owner options for developing accessory dwelling units in Charlottesville, Virginia.

[Accessory Dwelling Units: A Practical Option to Promote Affordability](#)

This concise guide provides an overview of local policy issues related to accessory dwelling units (ADUs) and includes specific recommendations for cities and counties in Delaware to help them develop zoning regulations for ADUs.

[View all guides](#)

[MODEL ORDINANCES](#)

[Accessory Dwelling Unit Memorandum](#)

This guide is designed to help cities and counties in California update local zoning regulations for accessory dwelling units (ADUs) to comply with state statutes.

[Accessory Dwelling Unit Model Ordinance](#)

This model ordinance provides a template to help cities in Southwest Idaho draft regulations that encourage the development of accessory dwelling units.

[Accessory Dwelling Unit Model Ordinance](#)

This model ordinance provides a template to help cities and towns in Rockingham County, New Hampshire, draft regulations that encourage the development of accessory dwelling units.

[Accessory Dwelling Units: Issues & Opportunities](#)

This guide provides a comprehensive overview of local policy issues related to accessory dwelling units (ADUs) and includes specific recommendations for cities and counties in Washington to help them develop zoning regulations for ADUs.

[Accessory Dwelling Units: Model State Act and Local Ordinance](#)

This guide includes model state and local legislation to encourage the development of accessory dwelling units.

[Massachusetts Model Bylaw for Accessory Dwelling Units](#)

This model bylaw provides a template to help municipalities in Massachusetts draft regulations that encourage the development of accessory dwelling units.

[View all model ordinances](#)

COMPREHENSIVE PLANS

[Auburn, WA, Imagine Auburn Comprehensive Plan](#)

The city's comprehensive plan includes several policy recommendations that support the development of accessory dwelling units.

[Moscow, ID, Comprehensive Plan](#)

The city's comprehensive plan discusses the benefits and challenges associated with expanding the supply of accessory dwelling units (ADUs) and includes a policy recommendation that supports the development of ADUs.

[Orono, ME, Comprehensive Plan](#)

The town's comprehensive plan includes two specific policy recommendations that support the development of accessory dwelling units.

[Portland, OR, Comprehensive Plan](#)

This comprehensive plan belongs to the Accessory Dwelling Units, Comprehensive Planning, Environmentally Sensitive Areas, Inclusionary Housing, Social Equity, Solar Energy, and Tree Preservation and the Urban Forest collections.

[Prince George's County, MD, Plan 2035 General Plan](#)

The county's comprehensive plan, which achieved Bronze-level recognition in APA's Comprehensive Plan Standards for Sustaining Places Recognition Program Pilot, includes several policy recommendations that support the development of accessory dwelling units.

[Temple Terrace, FL, Imagine 2040 Comprehensive Plan](#)

This comprehensive plan belongs to the Accessory Dwelling Units, Capital Improvements Programming, and Comprehensive Planning collections.

[View all comprehensive plans](#)

REGULATIONS

[Auburn, AL, Zoning Ordinance](#)

The city's zoning code addresses accessory dwelling units (ADUs) and student housing.

[Auburn, WA, Municipal Code](#)

The city's zoning code permits internal, attached, and detached accessory dwelling units by right in all districts that permit single-family homes, subject to use-specific standards.

[Bentonville, AR, Zoning Code](#)

This regulation belongs to the Accessory Dwelling Units, Content-Neutral Sign Regulation, Downtown Revitalization, and Solar Energy collections.

Bloomington, MN, Code of Ordinances

This regulation belongs to the Accessory Dwelling Units, Active Transportation, Creative Placemaking, and Green Building collections.

Boulder, CO, Revised Code

This regulation belongs to the Accessory Dwelling Units, Active Transportation, Environmentally Sensitive Areas, Food Trucks, Inclusionary Housing, Marijuana-Related Uses, Rethinking Off-Street Parking Requirements, Social Service Uses, Solar Energy, and Student Housing collections.

Chapel Hill, NC, Code of Ordinances

This regulation belongs to the Accessory Dwelling Units, Green Building, Inclusionary Housing, Residential Infill Development, Solar Energy, Student Housing, and Tree Preservation and Urban Forestry collections.

[View all regulations](#)

RELATED COLLECTIONS

Housing an Aging Population

This collection catalogs resources that provide background, policy guidance, and examples of plan recommendations and zoning and licensing regulations for various types of residences and facilities designed for or marketed to an aging population.

Tiny Houses and Micro-Apartments

This collection catalogs resources that provide background, policy guidance, and examples of local development regulations for tiny houses, tiny house subdivisions, and micro-apartments from across the country.

ACCESSORY DWELLING UNIT MODEL ORDINANCE

I. Authority

This section is enacted in accordance with the provisions of RSA 674:71 – 73 and RSA 674:21.

II. Purpose

The purposes of the accessory dwelling unit ordinance are to:

- (a) Increase the supply of affordable housing without the need for more infrastructure or further land development.
- (b) Provide flexible housing options for residents and their families.
- (c) Integrate affordable housing into the community with minimal negative impact.
- (d) Provide elderly citizens with the opportunity to retain their homes and age in place.

III. Definition

An “accessory dwelling unit” means a residential living unit that is within or attached to a single-family dwelling [OPTIONAL: or is located in a detached structure] 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.

IV. Conditional Use Permit Required

Pursuant to RSA 674:21 the Planning Board is hereby authorized to grant a Conditional Use Permit to allow for accessory dwelling units in accordance with the restrictions and requirements of this section.

EXPLANATION

RSA 674:71-7341 is the new statutory reference for accessory dwelling units (ADU) and RSA 674:21 Innovative Land Use Controls is the statutory reference for administering conditional use permits.

These purposes are based on the purposes from the State law. The municipality may add additional purposes as desired.

An ADU may be deemed a unit of workforce housing for purposes of satisfying the municipality’s obligation under RSA 674:59 if the unit meets the criteria in RSA 674:58, IV for rental units.

This is the State definition for an ADU. Because the State law allows the use of detached structures for an accessory dwelling unit, the ordinance definition should be expanded to state such, if a municipality wishes to allow accessory dwelling units in or as detached structures.

Accessory Dwelling units can be permitted by right, as: 1) a Conditional Use Permit by the Planning Board (appeal to Superior Court); 2) a Special Exception by the Zoning Board of Adjustment (appeal to the ZBA); or 3) a building permit approved and issued by the Building Inspector. This model recommends approval as a Conditional Use Permit by the Planning Board. If a municipality uses the Conditional Use Permit or Special Exception process items in section IV, (a)-(g) are recommended as criteria for approval of an ADU application.

V. Criteria for Approval

All of the following criteria must be met in order for the zoning board/planning board/building inspector to approve the construction of an accessory dwelling unit:

- (a) A maximum of one (1) accessory dwelling unit may be permitted on property located in zoning districts that allow single-family dwellings and must be located within or attached to the principal single family dwelling unit [OPTIONAL: or be located in a detached structure on the property].
- (b) An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit. The accessory dwelling shall have an independent means of ingress and egress.
- (c) All municipal regulations applicable to single-family dwellings shall also apply to the combination of a principal dwelling unit and an accessory dwelling unit including, but not limited to, lot and building dimensional requirements. A minimum of two parking spaces shall be provided for the accessory dwelling unit.
- (d) The applicant for a conditional use permit shall demonstrate adequate provisions for water supply and sewage disposal for the accessory and primary dwelling units in accordance with RSA 485-A:38. Water and wastewater systems for the principal and accessory dwelling units may be combined or separate.
- (e) Either the principal dwelling unit or the accessory dwelling unit must be owner occupied. The owner must demonstrate that one of the units is their principal place of residence and legal domicile. Both the primary dwelling unit and the accessory dwelling unit must remain in common ownership.
- (f) Accessory dwelling units shall maintain an aesthetic continuity with the principal dwelling unit as a single-family dwelling.

Provision (a) in State law indicates clearly that an accessory unit is expected to have a direct physical connection to the original single family unit. A local ordinance can offer some flexibility (i.e., connection through a breezeway) but the combined structures are intended to maintain the appearance of a single family dwelling.

OPTIONAL: include a definition of “attached”. Example: An attached accessory dwelling unit shall be connected to the principal dwelling unit by a shared wall or roofed and enclosed structure with doors to both units.

A municipality may require an applicant to upgrade an existing septic system so that the existing system is designed and constructed to provide the septic capacity required for the total number of bedrooms on site after the ADU has been constructed.

*A municipality **may not** require a familial relationship between the occupants of an ADU and the occupants of a principal dwelling unit. Both units must be in common ownership.*

In considering detached ADUs, municipalities are required to determine if such uses are appropriate for their community. This model encourages the use of detached structures but

- (g) An accessory dwelling unit size may not be restricted to less than 750 square feet.
- (h) [OPTIONAL]: Detached Accessory Dwelling Units. Detached accessory dwelling units are permitted. Detached accessory dwelling units shall require that the lot be 20 percent larger than the minimum lot size required in the residential zone it is proposed.}
- (i) The accessory dwelling unit shall have no more than 2 bedrooms.

requires additional lot size and prohibits more than one ADU per single family lot.

Provision (g) allows the municipality to prepare regulations outlining the aesthetic values necessary to comply with this section. The municipality can also mandate maximum and minimum unit sizes as long as the minimum is no less than 750 square feet. (Note: This does not mean an applicant cannot build an ADU smaller than 750 sq. feet, but the municipality cannot require it to be smaller.) A common requirement is to limit the accessory unit to no larger than one-third the size of the combined square footage of living space in the principal dwelling unit and proposed accessory dwelling unit.

State law prohibits a municipality from limiting ADUs to less than two bedrooms. However, an applicant may propose a one bedroom ADU. This model advocates no more than two (2) bedrooms. The municipality should choose a number of bedrooms that emphasizes the new unit is secondary to the primary dwelling unit on site.

VI. Occupancy Permit Required

Prior to occupancy of the accessory dwelling unit, the homeowner shall obtain an occupancy permit from the Building Inspector.

Note on Application Requirements: A municipality may wish to specify submission requirements for ADU applications, perhaps creating a new application form with a checklist of items, and add a note to their ordinance referencing that completion of such an application is required.