8/4/26 comments below by Scott Adams, AICP, Land Development Planner, Compact Cottages (local homebuilder) and member of City of Asheville's Affordable Housing Advisory Committee (AHAC), and member of Asheville for All (housing advocacy organization)

Sec. 7-2-5. Definitions.

Accessory dwelling unit means a separate and complete dwelling unit that is contained on the same lot as one **primary or duplex dwelling unit** ~~the structure of a single-family dwelling or business~~.

Could this definition be expanded and clarified as follows?

Accessory dwelling unit means a separate and complete dwelling unit(s) that is contained on the same lot as one primary or duplex dwelling unit. An existing primary duplex dwelling unit may add one (1) ADU dwelling per max. ADU size (SF) and an existing single-family dwelling unit may add a single ADU or duplex ADU (2 units) per max. ADU size (SF).

Example:

Durham, NC UDO allows Duplex ADUs as long as their aggregate size is 1,200 SF or less (i.e. Duplex ADU with two 600 SF halves)

UDO excerpt (below)

If a primary dwelling is a single-family residence, an accessory structure may be a duplex, so long as the total heated sf of the Accessory Dwelling Unit (ADU) does not exceed 1,200 square feet for both units combined.

https://www.aaronlubeck.com/p/durhams-first-duplex-adu

Sec. 7-14-1. Accessory uses and structures.

(a) *General standards and limitations.* All accessory uses and accessory structures shall conform to the applicable requirements of this chapter. The provisions of this section establish additional requirements and restrictions for these uses and structures. Except as otherwise provided in this chapter, any accessory uses or accessory structures shall be treated as a permitted use in the zoning district in which it is located in connection with any lawfully established principal use or structure. Any accessory use or structure may be approved in conjunction with approval of the principal use or structure.

(1) *Setback and yard requirements.* Except as otherwise provided in this chapter, ~~an~~ accessory uses and structures shall not be located within a ~~required~~ front setback ~~area~~. Accessory uses and structures may encroach into a ~~required~~ side or rear setback ~~area~~, but may not be located closer than six feet to the side or rear property line.

(2) *Detached canopies.* **Notwithstanding**~~Not withstanding~~ subsection 7-14-1(a)(1) above, a detached canopy, located in a nonresidential district, which is subordinate to the principal structure, and situated on the same lot, and is used for purposes that are integral to the use of the principal structure shall be subject to the same minimum setback requirements as buildings in the same zoning district.

(3) *Temporary accessory uses and structures.* Temporary accessory uses and structures shall be governed by the standards for temporary uses set forth in section 7-14-2.

(b) *Permitted accessory uses and structures.*

(1) *Swimming pools.*

a. *Fence required.* All permanent outdoor swimming pools having a depth of 18 inches or greater at the deepest point, except for commercial pools and pools operated by hotels or motels under constant surveillance, shall be completely surrounded by a fence, barrier or a wall with a height of no less than four feet. The fence or wall may be made of any suitable and durable materials. Other design requirements may apply: See section 7-9-2 if the property is located in a Historic Preservation Overlay District or section 7-9-3 if the property is located in the Downtown Design Review Overlay Area, or section 7-8-17 if in the River District Design Area. A principal or accessory building may be used as part of such enclosure.

b. *Operation as business.* No private residential swimming pool which is located in a residential district shall be operated as, or in conjunction with, a business, day care operation, bed and breakfast homestay or inn, or home occupation, except for those which are approved adult and child day care homes.

(2) *Devices for the generation of energy or conservation.*

a. *Solar energy systems.* Private, noncommercial solar energy systems shall comply with the minimum setback requirements. The City of Asheville Board of Adjustment may grant a variance to the required setbacks and allow such structures to be located in the front yard in order to allow for optimal placement provided that no portion of the structure or architectural features project over the property lines, that the structure will not adversely impact adjacent properties and will be compatible with the character of the

neighborhood, and that it can be demonstrated that no other design can produce the same outcome.

b. *Wind energy systems.* Private, noncommercial wind energy conversion systems shall be setback from all property lines a minimum distance equal to the height of the system and shall not exceed 80 feet. Noise generated by the system shall not exceed 60 decibels (dBA), as measured at the property line, except during short term events such as utility outages and severe wind storms.

c. *Water conservation/holding tanks.* Private, noncommercial water conservation/holding tanks, 12 feet or less in height, shall comply with the minimum setback requirements. Cisterns must cover their openings to prevent contamination and entrapment.

1. Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.

2. Parking outside of a substantially enclosed structure of more than four motor vehicles between the front building line of the principal building and the street on any lot used for single-family, duplex, or family care home purposes.

3. *Accessory structures and accessory apartments.* Permitted in all residential districts as a use by right, subject to special requirements as set forth in section 7-16-1.

4. *Uses not regarded as accessory.* The following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts.

(3) *Accessory dwelling units.* Accessory dwelling units are allowed as permitted in the table of permitted uses located in this chapter. The purpose of the accessory dwelling unit provision is to allow the efficient use of existing housing stock, parcels of land and community infrastructure, and to increase the number and variety of residential units while respecting the scale and character of existing neighborhoods.

a. *General provisions.* The following standards apply to accessory dwelling units ~~located in all residential districts except urban residential~~.

1. An accessory dwelling unit shall be located only on a residential lot containing **no more than two residential units** ~~one single- family detached structure~~. The residential lot may contain other accessory structures as provided in this ordinance.

Per item 1. (above), can this be clarified to note that at build-out, a lot may have up to three (3) units on site? (i.e. Primary Duplex with ADU, or Primary Single-Family Home with Duplex ADU)

2. Only one accessory dwelling unit shall be permitted per lot or parcel.

3. Accessory dwelling units shall not be considered as additional dwelling units for the purpose of determining minimum lot size or maximum density.

4. Accessory dwelling units may occupy conforming or lawfully created non-conforming existing accessory structures, or lawfully created non-conforming primary residential structures.

b. *Standards.* ~~Accessory dwelling units may occupy conforming or lawfully created non-conforming existing accessory structures, or lawfully created non-conforming primary residential structures. The maximum size of the accessory dwelling unit shall be determined based on the following:~~

1. ~~A detached accessory dwelling unit:~~

~~Area—May not exceed the lesser of:~~

~~70% percent of the gross floor area of the primary dwelling unit, or~~

~~800 square feet.~~ **The maximum size of an accessory dwelling unit shall be determined by the following table:**

ADU Type	**Maximum Area**		**Max Height**
Detached	**1,200 SF**	**Not larger than 90 percent of the primary ~~structure~~ *dwelling****	**25 feet**
Attached	**1,200 SF**	**Not larger than 90 percent of the primary ~~structure~~ *dwelling****	**NA**

1. **a.** For the purposes of this subsection, covered decks, patios, and porches are not included in gross floor area, but garages are included.

**** See note on next page re: definition of "Structure" vs. "Dwelling"***

The 1,200 SF max. area could be simplified to mean Heated Living Area (HLA), excluding other building design elements such as uncovered decks, patios, covered porches, and garages/carports.

Possible new definition for UDO:

Heated Living Area – Finished, continuously heated/cooled indoor spaces within a building intended for human habitation.

Alternately, the section above could be amended to exclude garages from Gross Floor Area, consistent with the existing UDO definition (below):

Gross floor area means the sum of the total horizontal areas of the several floors of a building measured from the exterior faces of exterior walls and from the centerline of any party walls, if the portions of the building separated by such party walls are to be treated separately. The term gross floor area shall include any area with a ceiling height of seven feet or greater, all elevator shafts, stairway shafts, and other areas of the building except up to 1,000 square feet of the floor space occupied by mechanical, electrical, and communications equipment designed to serve only the occupants of the building shall not be included in the calculation of gross floor area when such devices are located in the basement, first floor, or penthouse of said building. Additionally, gross floor area includes areas covered by canopies and like structures under which an active use is occurring such as drive- through service, gasoline pumping, loading and/or storage of materials, and similar activities. Gross floor area does not include the floor area in parking structures/decks.

****As a longer term ZTA/UDO update, Accessory Dwelling Unit (ADU) rules could be clarified by using the consistent term "Dwelling" rather than "Structure". Some zoning ordinances make further distinction/clarifications as follows:***

Structure = something without walls (i.e. picnic shelter, gazebo, pergola, outdoor sculpture, etc.)
Building = something with walls and a roof (i.e. storage shed)
Dwelling = a building with walls and a roof intended for living purposes

Current UDO definitions (below)

Building means any structure used or intended for supporting or sheltering any use or occupancy. For the purposes of flood protection regulations, see Structure.

Dwelling means a building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.

Structure means that which is built or constructed. For flood protection regulations, a structure is a walled and roofed building, a manufactured home, a gas or liquid storage tank, that is principally above ground.

~~2.~~ **b.** Gross floor area requirements shall not apply to the conversion of a legally established nonconforming structure, if the gross floor area is not increased and meets the requirements set forth in Article XVII of this chapter.

~~Height—The height of a detached accessory dwelling unit may not exceed 25 feet.~~

~~2. An attached accessory dwelling unit (located within the same structure as the primary dwelling unit with shared foundation, exterior walls and roof):~~

~~Area—May not exceed the lesser of:~~

~~70% percent of the gross floor area of the primary dwelling unit, or~~

~~1,000 square feet.~~

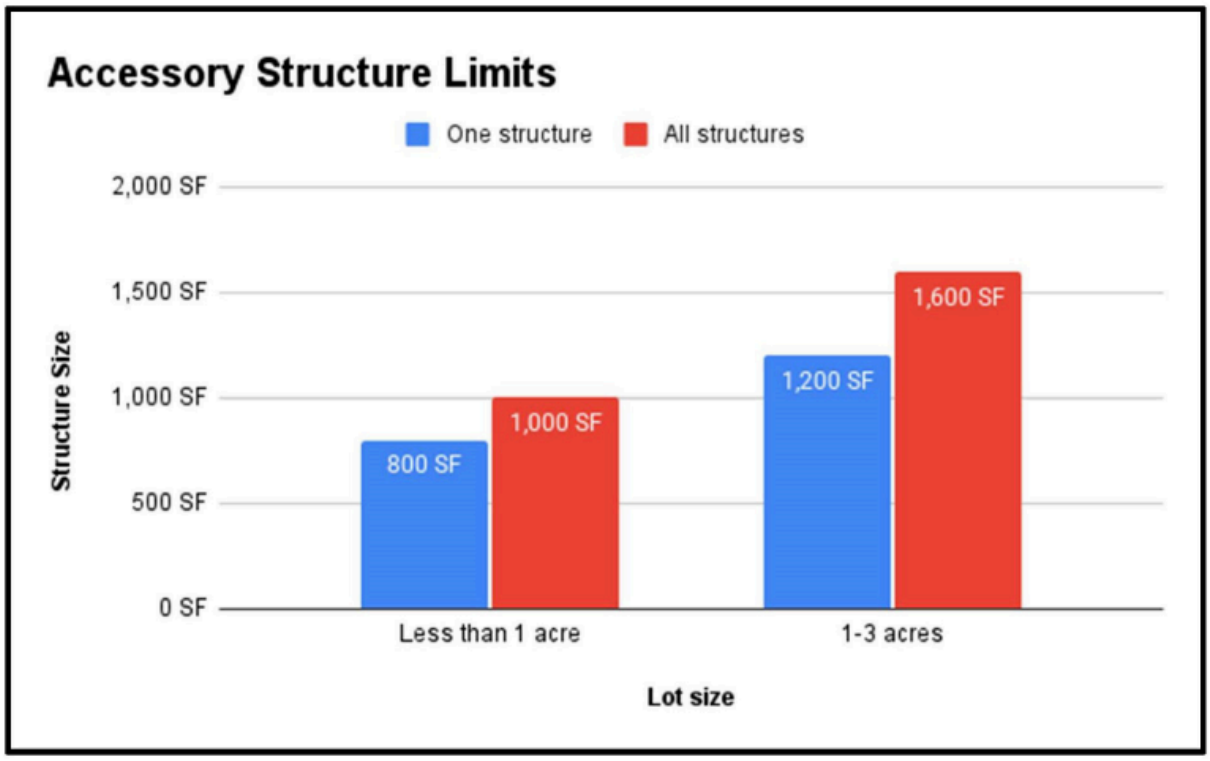
~~Height—The height of an attached accessory dwelling unit will be governed by the height requirements for the residential structure.~~

c. *Parking.* ~~Parking for the primary dwelling unit must be maintained or replaced on site. Parking for the accessory dwelling unit shall be provided at a rate of one parking space per accessory dwelling unit if off-street parking is required for the primary residential unit. This parking space(s) shall be located to the side or rear of the primary residential unit, outside of the front setback area.~~ **Off-street parking for the accessory dwelling unit shall not be required.**

(4) *Accessory structures.*

a. *General provisions.* The following standards apply to accessory structures located in all residential districts including Urban Residential.

b. The footprint of accessory structures located on a lot shall not exceed the following maximum footprint(s):



The footprint of the portion of accessory structures used as accessory dwelling units shall not be included in this calculation of footprint for accessory structures.

The footprint of any accessory structures used for agricultural purposes shall not be included in this calculation of footprint for accessory structures. Such structures must meet the requirements established for agricultural uses established in section 7-16-1 of this chapter.

~~c. Accessory structures shall not exceed 25 feet in height except that height may be increased one foot for every one foot of additional side and rear setback, up to a maximum of 40 feet.~~

~~d.~~ **c.** Accessory structures, except for detached garages **and ADUs**, shall be located only in side or rear yards for non-corner lots and not in front of the principal structure. On lots of more than three acres, accessory structures may be located in the front of the principal structure, but not in the required front yard. Accessory structures, including detached garages, located in side yards of corner lots whose rear or side yards are adjacent to a front yard of the adjacent lot shall maintain a setback equivalent to the front yard setback of the adjacent lot. Detached garages may be located in front of the principal structure if it is determined by the planning and development director that practical difficulties exist for garage location in side or rear yards due to topography, lot width or other physical factors. Upon this determination, detached garages may be located in front of the principal structure provided that: 1) the garage is not located in the front setback, and 2) the garage is located and/or designed so that it is clearly subordinate to the principal structure in terms of scale.

e. *Reserved.*

f. Accessory structures providing common facilities for residential developments (clubhouse, pool house, etc.) shall not be subject to the gross floor area limits set forth in subsection 7-14-1(b)(4)b. above, or the location requirements set forth in subsection 7-16-1(b)(4)d. above.

g. Accessory structures may be located or expanded on lawfully existing nonconforming lots or lots (conforming or nonconforming) containing nonconforming structures, provided that all other requirements of this chapter and other applicable local, state, and federal regulations are met.

(Ord. No. 2369, § 1, 5-27-97; Ord. No. 3480, § 1(a), 6-12-07; Ord. No. 3700, § 1l, 2-10-09; Ord. No. 4431, § 1e, 6-23-15; Ord. No. 5196, § 1, 1-27-26)