City of Asheville Ordinance Number: _____

Ordinance Description:

Ordinance Amending Chapter 7 Of The Code Of Ordinances Of The City Of Asheville To Amend Accessory Dwelling Unit (ADU) Regulations

Ordinance Details:

Whereas, the City of Asheville has the authority pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

Whereas, the Unified Development Ordinance (Chapter 7 of the City Code of Ordinances) grants the Asheville City Council to amend, supplement, modify, or repeal the regulations set forth in this chapter or amend the zoning maps;

Whereas, the Comprehensive Plan maintains goals to *Increase and Diversify the Housing Supply* and to *Encourage Responsible Growth*;

Whereas, this amendment aligns with the City Council goals to update the Unified Development Ordinances in order to reflect recommendations in the Comprehensive Plan and other adopted goals and plans;

Whereas, this Ordinance will provide more opportunities for incremental residential infill;

Whereas, this Ordinance is determined to be reasonable, in the public interest, and is consistent with the Comprehensive Plan in that the changes:

1. Promote zoning policies to encourage more housing; and,
2. Promote incremental, small-scale residential units on residential lots that encourage neighborhood compatibility that create flexibility within the planning, permitting, and construction process,

Now, therefore, be it ordained by the City Council of the City of Asheville that:

Section 1

Chapter 7 of the Code of Ordinances of the City of Asheville is hereby amended as follows:

1. **Replace Section 7-2-5 definition for *Accessory Dwelling Unit* and replace it with the following:**

Accessory dwelling unit means a separate and complete dwelling unit that is contained on the same lot as one primary or duplex dwelling unit.

2. **Repeal and replace Section 7-8-1 in its entirety and replace it with the following (including the updated spreadsheet):**

Sec. 7-8-1. Enumeration and description of districts; designation of districts on official zoning maps.

(a) *Criteria for zoning districts.* For the purposes set forth in article I, the City of Asheville and its extraterritorial jurisdiction are divided into zoning districts taking into account the design, size, and/or location of one or more of the following:

(1) Transportation facilities, including streets, sidewalks, and bridges;

(2) Schools, parks, greenways, and other public facilities and requirements;

(3) Police protection;

(4) Fire protection;

(5) Sanitary sewer and stormwater drainage structures;

(6) Water supplies for purposes of fire protection and consumption;

(7) Access and location to other utility services;

(8) Potential hazards from fire, flooding, and diseases;

(9) Access to light and air from buildings;

(10) Access for fire and police protection and refuse collection;

(11) Protection for occupants of dwellings from noise, dust, and gases caused by traffic and other uses;

(12) Topography and other natural features; and/or

(13) Current uses of land and buildings for residences, businesses, industries, places of worship, schools, and for other uses and heights of buildings, the size and location of yards, and the density of population in each of the zoning districts hereinafter mentioned.

(b) *Enumeration and descriptions of zoning districts.* There are three types of zoning districts:

(1) General use districts are those in which a variety of uses are permitted. The general use districts established in this article are classified from "highest" to "lowest" in the following order:

"Highest"

RS-2 Residential Single-Family Low-Density District

RS-4 Residential Single-Family Medium Density District

RS-8 Residential Single-Family High Density District

RM-6 Residential Multi-Family Low Density District

RM-8 Residential Multi-Family Medium Density District

RM-16 Residential Multi-Family High Density District

Neighborhood Business District

Office District

Office II District

Office/Business District

Community Business I District

Community Business II District

Urban Residential District

Neighborhood Corridor District

Haywood Road Form District

River Arts Form District

Urban Village District

Urban Place District

Resort District

Institutional District

Highway Business District

Regional Business District

Central Business District

River District

Commercial Industrial District

Light Industrial District

Industrial District

"Lowest"

For any district where an overlay district is found, the overlay district shall have the same order as the general use district for the purpose of determining its hierarchy under the table.

(2) Overlay districts are zoning districts which overlap one or more general use districts. Overlay districts (article IX) involve additional regulations on some or all property within underlying general use districts. The following overlay districts are established:

a. Reserved.

b. *Historic preservation overlay district(s).* Asheville's historic areas are important assets to the city. The protecting and conserving of the historic areas is encouraged through the establishment of historic preservation overlay districts. Designation of an area as a historic district and the development of design

standards for the area help preserve the architectural integrity of the area and stabilize and enhance property values. Historic districts, protected by designation as preservation overlays, serve as valuable educational tools and as tourist attractions.

c. *Downtown design review overlay district.* Urban design review assists in protecting the downtown local architectural heritage and in the preservation of the considerable economic investments that have occurred over the years. The downtown design review process seeks to encourage renovation and new development in a manner that will promote visual harmony, enhance the historical integrity, and develop creative design solutions. While the design guidelines will not dictate architectural styles, they will suggest a variety of design options for achieving compatibility within the designated boundaries.

d. *Manufactured housing and manufactured housing community overlay districts.* The manufactured housing and manufactured housing community overlay districts are established to provide a procedure for identifying areas in which manufactured housing may be located and to establish standards for individual manufactured homes and for the development of communities. These overlay districts are intended to expand the range of housing opportunities available to residents of Asheville while assuring that manufactured housing is compatible with existing development.

e. *Blue Ridge Parkway Overlay District.* Realizing the importance of the Blue Ridge Parkway to the economy of Asheville and western North Carolina, the Blue Ridge Parkway Overlay District is created to protect and preserve the unique features of this asset to the city. The standards established in this district will protect the scenic quality of the parkway and reduce encroachment on its rural setting.

f. *Transition overlay district.* Several areas in the City of Asheville are experiencing development pressures which are pushing the areas toward change. The location of most of these area on the edge of residential neighborhoods means that changes in these

areas could have a significant impact on the adjacent neighborhoods. Transition overlay districts are established to allow these areas to change while assuring that the change is compatible with adjacent areas. Standards are developed individually for each area and designed to meet each area's unique needs. Involvement of area property owners and residents in the preparation of development standards is encouraged.

(3) Conditional districts are zoning districts which provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses. Conditional zoning districts are available for any of the general use zoning classifications enumerated in this ordinance; moreover, there are certain conditional districts that are not associated with an existing general use district and may only be considered with Level III developments. These districts include:

Central Business Expansion District

Institutional Expansion District

Commercial Expansion District

Residential Expansion District

Industrial Expansion District

Lodging Expansion District

Mixed Use Expansion District

(c) *Designation of districts on official zoning maps.* Each district shall be shown on the official zoning maps of the City of Asheville, North Carolina, a copy of which is located in the city planning and development department. Said set of maps, and all district designations, boundaries, figures, letters, and symbols shown on such maps are hereby declared to be a part of this chapter.

(d) *Table of Permitted Uses.* The table is a summary listing of uses that are fully defined in section 7-2-5.

To see *Table of Permitted Uses*, click here (PDF)

To see Table of Permitted Uses, click here (Excel)

3. **Repeal and replace Section 7-14-1 *Accessory uses and structures* in its entirety and replace it with the following:**

(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, accessory uses and structures shall not be located within a front setback. Accessory uses and structures may encroach into a side or rear setback, but may not be located closer than six feet to the side or rear property line.

(2) *Detached canopies.* Notwithstanding 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.

(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.

1. An accessory dwelling unit shall be located only on a lot containing no more than two residential units. The residential lot may contain other accessory structures as provided in this ordinance.

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.*

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

2. The maximum size of an accessory dwelling unit shall be 1,000 square feet but not larger than the primary structure.

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

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.

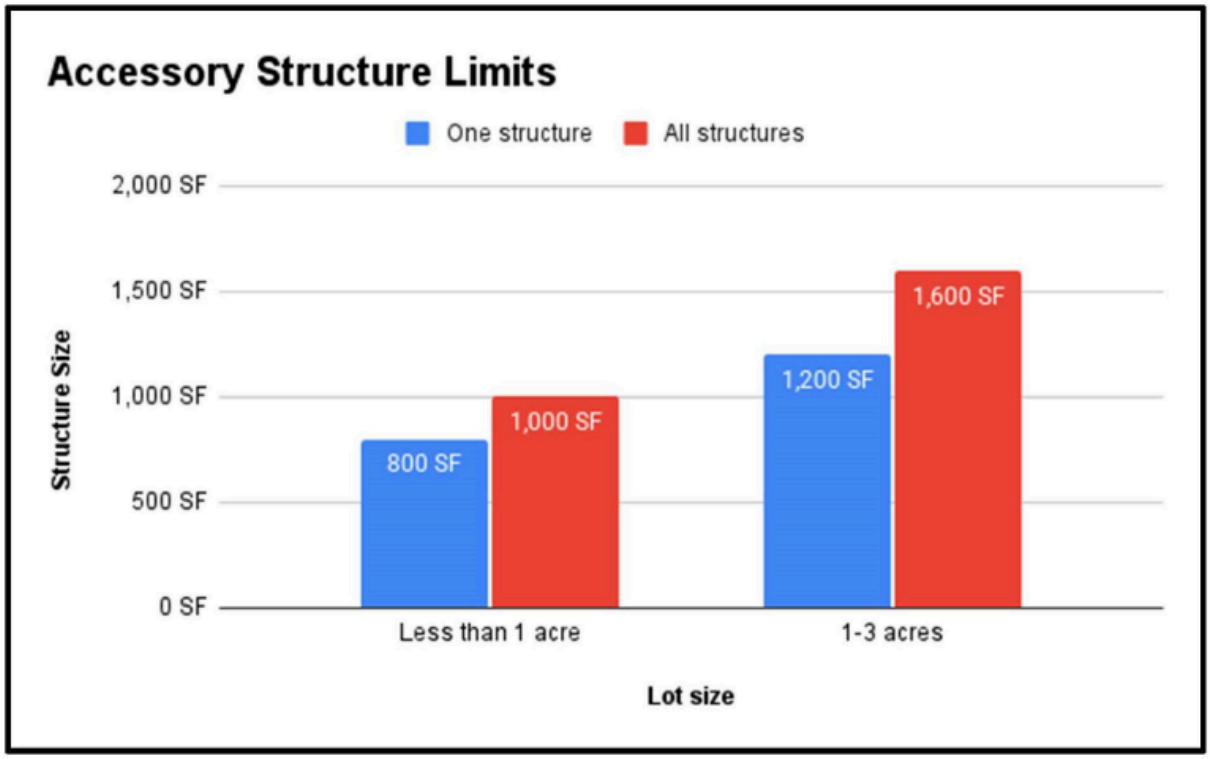
Height. The height of a detached accessory dwelling unit may not exceed 25 feet.

c. *Parking.* Off-street parking for the accessory dwelling unit shall not be required.

(4) *Other accessory structures.*

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

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



2. 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.

3. 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.

4. 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.

b. *Reserved.*

c. 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.

d. 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.

Section 2

If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3

All ordinances or parts of ordinances in conflict are hereby repealed to the extent of

such conflict.

Section 4

This ordinance will become effective upon adoption.

Read, approved, and adopted this 25th day of August, 2026.

_____
Esther E. Manheimer, Mayor

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Brad Branham, City Attorney

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Magdalen Burleson, City Clerk