ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO AMEND NONCONFORMING ACCESSORY DWELLING UNIT REQUIREMENTS

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, 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, the Comprehensive Plan supports simplification of the UDO to promote a broader range of housing options; and,

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

1. Align boards and commissions with statutory requirements; and
2. Improve the efficiency of city operations,

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. **Amend Section 7-14-1 Accessory Uses and Structures in its entirety** [Note: Section 7-14-1(b)(3) and 7-14-1(b)(4) are the only changes] **and replaced with the following:**

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, 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 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.

(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 one single-family detached structure. The residential lot may contain other accessory structures as provided in this ordinance.

2. Only one accessory dwelling unit shall be permitted per single-family detached dwelling.

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.

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

2. 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 17 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.

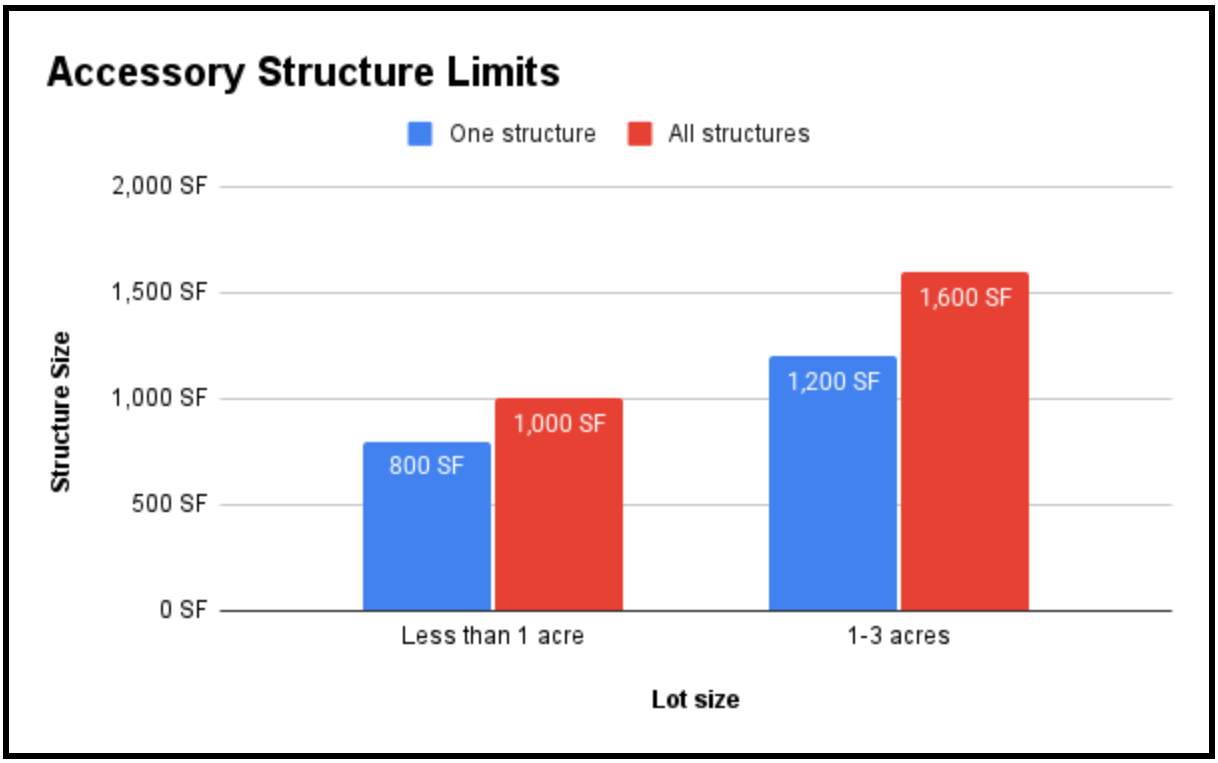
Height—The height of an attached accessory dwelling unit will be governed by the height requirements for the residential structure.

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.

(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. Accessory structures, except for detached garages 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)

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 27th day of January, 2026.

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney